



LODI CITY COUNCIL

Carnegie Forum

305 West Pine Street, Lodi

AGENDA – REGULAR MEETING

Date: July 5, 2006

Time: Closed Session 5:45 p.m.
Regular Meeting 7:00 p.m.

For information regarding this Agenda please contact:

Jennifer M. Perrin

Interim City Clerk

Telephone: (209) 333-6702

NOTE: All staff reports or other written documentation relating to each item of business referred to on the agenda are on file in the Office of the City Clerk and are available for public inspection. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. To make a request for disability-related modification or accommodation contact the City Clerk's Office as soon as possible and at least 24 hours prior to the meeting date.

C-1 Call to Order / Roll Call

C-2 Announcement of Closed Session

- a) Conference with Blair King, City Manager, and Jim Krueger, Deputy City Manager (Acting Labor Negotiators), regarding Association of Lodi City Employees (General Services and Maintenance and Operators) and Lodi Professional Firefighters, pursuant to Government Code §54957.6
- b) Actual Litigation: Government Code §54956.9(a); one case; County of San Joaquin v. City of Stockton et al., San Joaquin County Superior Court, Case No. CV029651
- c) Actual Litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al., United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM

C-3 Adjourn to Closed Session

NOTE: THE FOLLOWING ITEMS WILL COMMENCE NO SOONER THAN 7:00 P.M.

C-4 Return to Open Session / Disclosure of Action

A. Call to Order / Roll call

B. Invocation – Pastor Jason Tacderan, Zion Reformed Church

C. Pledge of Allegiance

D. Presentations

- D-1 Awards – None
- D-2 Proclamations
 - a) Parks and Recreation Month (PR)
- D-3 Presentations
 - a) Update on Centennial activities (CLK)

E. Consent Calendar (Reading; comments by the public; Council action)

- E-1 Receive Register of Claims in the amount of \$2,649,003.46 (FIN)
- E-2 Approve minutes (CLK)
 - a) May 31, 2006 (Special Meeting)
 - b) June 13, 2006 (Shirtsleeve Session)
 - c) June 27, 2006 (Shirtsleeve Session)
 - d) June 27, 2006 (Special Meeting)

- E-3 Approve plans and specifications and authorize advertisement for bids upon receipt of authorization to construct from Caltrans for the Stockton Street Asphalt Concrete Resurfacing Project (Kettleman Lane to 1,000 Feet South of Century Boulevard) (PW)
- Res. E-4 Adopt resolution awarding contract for Playground Improvements at Blakely Park, 1050 South Stockton Street, to A. M. Stephens Construction Inc., of Lodi (\$209,577.80) (PR)
- E-5 Accept improvements under contract for Playground Improvements at Van Buskirk Park, 600 North Pleasant Avenue, and Hale Park, 209 East Locust Street (PR)
- Res. E-6 Adopt resolution accepting improvements under contract with A.M. Stephens Construction Company for Henning Substation Driveway and Parking Lot Expansion (EUD)
- Res. E-7 Adopt resolution accepting improvements in Vintage Oaks, Tract No. 3482 (east side of Lower Sacramento Road, south of DeBenedetti Park) (PW)
- Res. E-8 Adopt resolution authorizing fee adjustments for various Animal Shelter services and approve a shelter spay/neuter voucher program (PD)
- E-9 Authorize the City Manager to execute a settlement agreement in the matter of Michels Corporation, dba Michels Pipeline (Gelco Services) v. Crutchfield Construction Company, et al., San Joaquin County Superior Court, Case No. CV 028006, regarding the City's Water and Wastewater Main Replacement Program, Project No. 2 (CA)

F. Comments by the public on non-agenda items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted.

Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

G. Comments by the City Council Members on non-agenda items

H. Comments by the City Manager on non-agenda items

I. Public Hearings

- Res. I-1 Public hearing to consider adopting a resolution establishing low-income discounts for water and sewer services and adopting a resolution to place the measure on the ballot for the November 7, 2006, General Municipal Election (CA)

J. Communications

- J-1 Claims filed against the City of Lodi – None
- J-2 Appointments
- a) Appointments to the Animal Shelter Task Force, Lodi Arts Commission, and the San Joaquin County Commission on Aging (CLK)
- J-3 Miscellaneous – None

K. Regular Calendar

- Res. K-1 Adopt resolutions approving the 2006-07 Financial Plan and Budget and the 2006-07 Appropriations Spending Limit, OR adopt resolution authorizing the continuation of expenditures from July 7, 2006 through July 22, 2006, if necessary (CM)
- Res. **NOTE: This item is carried over from the meeting of 6/21/06**
- Res. K-2 Adopt resolution affirming July 1 opening and October 1 closing date for filing applications for residential allocations under the Lodi Growth Management Ordinance and direct staff to work with the development community to establish a new timeline for Council approval of various elements of development approvals (CA)
- NOTE: This item is carried over from the meeting of 6/21/06**

- K-3 Approve expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation and various other cases being handled by outside counsel (\$15,561.48) (CA)

NOTE: This item is carried over from the meeting of 6/21/06

- K-4 Provide direction regarding scheduling and type of action the Council may take at informal informational meetings referred to as "Shirtsleeve" City Council meetings (CM)

- K-5 Review and discussion of current regulations pertaining to food vending vehicles (CD)

- K-6 Presentation from the Grape Bowl Ad Hoc Committee regarding elements of the Americans with Disabilities Act Transition Plan and request that Council approve the proposed Grape Bowl concept plan (PR)

- Ord. K-7 Introduce ordinance amending Lodi Municipal Code Title 5 – Permits and Regulations –
(Introduce) Chapter 5.40, "Adult-Oriented Businesses," by repealing and reenacting Section 5.40.020, "Location of Adult-Oriented Businesses," to add "Residentially-Zoned Property" to the list of land uses subject to distance regulations regarding the location of adult-oriented businesses; and repealing and reenacting Section 5.40.400(D)(1) to delete the requirement that employees of adult-oriented business be fingerprinted as part of the employee license process (CA)

- Ord. K-8 Introduce ordinance amending Lodi Municipal Code Title 17 – Zoning – Chapter 17.39,
(Introduce) "C-2 General Commercial District," and Chapter 17.42, "C-M Commercial-Light Industrial District," to add card rooms as a permitted use, with a use permit, in both the C-2 and C-M zoning districts (CA)

L. Ordinances

- Ord. L-1 Ordinance No. 1780 entitled, "An Ordinance of the City Council of the City of Lodi Imposing a
(Adopt) Transactions and Use Tax to be Administered by the State Board of Equalization and Adding Chapter 3.09 to the Lodi Municipal Code"

M. Adjournment

Pursuant to Section 54954.2(a) of the Government Code of the State of California, this agenda was posted at least 72 hours in advance of the scheduled meeting at a public place freely accessible to the public 24 hours a day.

Jennifer M. Perrin
Interim City Clerk



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: July is Parks and Recreation Month

MEETING DATE: July 5, 2006

PREPARED BY: Parks and Recreation Director

RECOMMENDED ACTION: Presentation

BACKGROUND INFORMATION: A Proclamation will be presented by Mayor Hitchcock to representatives of the Lodi Parks and Recreation Department proclaiming the month of July as Parks and Recreation Month.

FISCAL IMPACT: None

FUNDING: None required

Tony C. Goehring
Parks and Recreation Director

TG:tl

cc: City Attorney

APPROVED: _____
Blair King, City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Update on Centennial Activities

MEETING DATE: July 5, 2006

PREPARED BY: City Clerk

RECOMMENDED ACTION: None required.

BACKGROUND INFORMATION: Interim City Clerk Perrin will give an update on the Centennial activities being planned for 2006.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

Jennifer M. Perrin
Interim City Clerk

JMP

APPROVED: _____
Blair King, City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Receive Register of Claims Dated June 20, 2006 in the Amount of \$2,649,003.46

MEETING DATE: July 5, 2006

PREPARED BY: Management Analyst

RECOMMENDED ACTION: That the City Council receive the attached Register of Claims. The disclosure of the PCE/TCE expenditures is shown as a separate item on the Register of Claims.

BACKGROUND INFORMATION: Attached is the Register of Claims in the amount of \$2,649,003.46 dated 6/20/2006 which includes PCE/TCE payments of \$18,859.70 and Payroll in the amount of \$1,146,411.72

FISCAL IMPACT: n/a

FUNDING AVAILABLE: As per attached report.

Ruby R Paiste, Interim Finance Director

RRP/kb

Attachments

APPROVED: _____
Blair King, City Manager

Accounts Payable	Page	-	1
Council Report	Date	- 06/20/06	
As of	Fund	Name	Amount
Thursday			

06/08/06	00100	General Fund	445,621.00
	00160	Electric Utility Fund	4,598.63
	00161	Utility Outlay Reserve Fund	195.51
	00164	Public Benefits Fund	161.98
	00170	Waste Water Utility Fund	10,020.08
	00172	Waste Water Capital Reserve	1,677.17
	00180	Water Utility Fund	64,249.42
	00181	Water Utility-Capital Outlay	1,251.66
	00182	IMF Water Facilities	100,108.66
	00210	Library Fund	4,592.06
	00234	Local Law Enforce Block Grant	1,260.00
	00270	Employee Benefits	369,467.91
	00300	General Liabilities	589.18
	00325	Measure K Funds	6,888.95
	00327	IMF(Local) Streets Facilities	64,071.00
	00340	Comm Dev Special Rev Fund	562.02
	00501	Lcr Assessment 95-1	249.36
	00502	L&L Dist Z1-Almond Estates	1,213.33
	00503	L&L Dist Z2-Century Meadows I	1,018.33
	00506	L&L Dist Z5-Legacy I,II,Kirst	1,538.34
	01211	Capital Outlay/General Fund	3,498.83
	01212	Parks & Rec Capital	4,629.00
	01250	Dial-a-Ride/Transportation	2,454.66
	01410	Expendable Trust	58,939.00

Sum			1,148,856.08
	00183	Water PCE-TCE	84.00

Sum			84.00

Total for Week			
Sum			1,148,940.08

Accounts Payable	Page	-	1
Council Report	Date	- 06/20/06	
As of	Fund	Name	Amount
Thursday			

06/15/06	00100	General Fund	696,166.24
	00160	Electric Utility Fund	43,295.65
	00161	Utility Outlay Reserve Fund	6,677.18
	00164	Public Benefits Fund	2,666.66
	00170	Waste Water Utility Fund	18,874.73
	00171	Waste Wtr Util-Capital Outlay	947.40
	00172	Waste Water Capital Reserve	117,818.96
	00173	IMF Wastewater Facilities	13,444.50
	00180	Water Utility Fund	13,570.45
	00181	Water Utility-Capital Outlay	49,030.22
	00182	IMF Water Facilities	22,402.80
	00194	South Central Western Plume	1,561.24
	00210	Library Fund	1,569.64
	00234	Local Law Enforce Block Grant	180.66
	00235	LPD-Public Safety Prog AB 1913	55.85
	00270	Employee Benefits	22,026.98
	00310	Worker's Comp Insurance	25,497.71
	00325	Measure K Funds	292,914.46
	00326	IMF Storm Facilities	3,433.77
	00327	IMF(Local) Streets Facilities	86,667.18
	00340	Comm Dev Special Rev Fund	1,139.10
	00459	H U D	1,036.80
	01214	Arts in Public Places	3,750.00
	01217	IMF Parks & Rec Facilities	4,522.73
	01250	Dial-a-Ride/Transportation	16,003.73
	01410	Expendable Trust	36,033.04

Sum			1,481,287.68
	00183	Water PCE-TCE	18,775.70

Sum			18,775.70

Total for Week			
Sum			1,500,063.38

Date - 06/20/06

Payroll	Pay Per Date	Co	Name	Gross Pay
Regular	06/04/06	00100	General Fund	834,821.58
		00160	Electric Utility Fund	153,703.31
		00164	Public Benefits Fund	5,023.95
		00170	Waste Water Utility Fund	70,187.17
		00180	Water Utility Fund	9,552.82
		00210	Library Fund	31,840.58
		00340	Comm Dev Special Rev Fund	38,430.14
		01250	Dial-a-Ride/Transportation	2,852.17

Pay Period Total:				
Sum				1,146,411.72



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Approve Minutes
a) May 31, 2006 (Special Meeting)
b) June 13, 2006 (Shirtsleeve Session)
c) June 27, 2006 (Shirtsleeve Session)
d) June 27, 2006 (Special Meeting)

MEETING DATE: July 5, 2006

PREPARED BY: City Clerk

RECOMMENDED ACTION: That the City Council approve the following minutes as prepared:
a) May 31, 2006 (Special Meeting)
b) June 13, 2006 (Shirtsleeve Session)
c) June 27, 2006 (Shirtsleeve Session)
d) June 27, 2006 (Special Meeting)

BACKGROUND INFORMATION: Attached are copies of the subject minutes, marked Exhibit A through D.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

Jennifer M. Perrin
Interim City Clerk

JMP
Attachments

APPROVED: _____
Blair King, City Manager

**LODI CITY COUNCIL
SPECIAL CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, MAY 31, 2006**

A. CALL TO ORDER / ROLL CALL

The Special City Council meeting of May 31, 2006, was called to order by Mayor Hitchcock at 6:35 p.m.

Present: Council Members – Beckman, Hansen, Johnson, and Mayor Hitchcock

Absent: Council Members – Mounce

Also Present: City Manager King, City Attorney Schwabauer, and Deputy City Clerk Perrin

B. REGULAR CALENDAR

B-1 “Presentation of the fiscal year 2006-07 recommended draft budget”

City Manager King reported that the presentation will consist of a general overview of the City's budget, followed by department presentations on their budgets, accomplishments, and objectives. At the June 6 Shirtsleeve Session, staff will present more in-depth information on the electric utility, water, and wastewater budgets; on June 7, Council will conduct a public hearing for the public to offer comments on the budget; and on June 21, it is anticipated that Council will adopt the fiscal year 2006-07 budget.

With the aid of a PowerPoint presentation (filed), City Manager King reviewed the highlights of the budget as follows:

- The general fund budget is balanced without the use of reserves.
- Progress has been made in developing the minimum general fund reserve, which is 15% of the expenditure budget pursuant to policy. With a budget of \$44 million, a reserve of \$7 million is needed. Presently, the reserve level is \$1.5 million, and another \$5.5 million is necessary to meet the minimum general fund goals. A 15% reserve represents the available cash level the City would need in the event of a catastrophic natural disaster, which would be equal to three months funding to operate and carry on governmental operations.
- Service levels are slowly being restored.
- Public safety is emphasized in this budget. Police and fire represent 52% of the proposed general fund budget, with a \$14 million Police Department budget (\$1.3 million increase from the previous year) and an \$8.5 million Fire Department budget (\$230,000 increase).

Council Member Hansen suggested the need for a policy to protect the general fund reserve to avoid consuming it once it is built up, to which Mr. King responded that typically a City Manager is obligated by policy to report to Council with a plan to address a low reserve level. Mr. Hansen expressed support for such a policy and stated that, despite the fact that the City is far from realizing a 15% reserve, it would be prudent to incorporate a mechanism now to protect the reserves from being spent thoughtlessly.

- Further work is necessary to meet electric utility fund reserves.
- Progress is being made to establish a vehicle replacement reserve. In the past, the City had a reserve for vehicle replacement, in which every vehicle was accounted for and on an annual basis funds were set aside toward replacement; however, the City moved away from that practice. The City should have \$7 million in reserve for vehicle replacement, and in this fiscal year, \$473,000 has been budgeted for all funds for vehicle replacement.
- Not addressed in the budget is facilities maintenance and replacement, which continues to be deferred. It is estimated that approximately \$3 million of maintenance is needed on City facilities in order to avoid deterioration and another \$2 million for replacement of facilities.

- The City's organizational chart had no changes with the exception of a number of internal service functions that were consolidated into the City Manager's Office.
- The all funds budget, which combines all City funds, is \$203,402,690. The largest fund is electric utility, which accounts for 37% of the all funds budget, or \$73 million; the general fund budget is \$44 million; wastewater utility is \$40 million, which is higher this year due to the Phase 3 capital project to restore the wastewater treatment plant; and water utility is \$12.9 million.
- This year, much effort went into verifying the numbers in the City's position control inventory to address the issues of contract employees and the practice of freezing positions through attrition. Out of 491 full-time positions, there are 43 mandated vacancies. Staff budgeted for all 448 full-time positions, with the exception of one, but did not budget for a vacancy factor; therefore, if an employee leaves and there is a gap between his exit and the replacement filled at a lower salary level, there would be a savings to the City. Mr. King pointed out that there was an error in the total positions table for the Police Department. It was believed that there would be 76 sworn positions and 3 mandatory vacancies for one jailer-dispatcher, one clerk, and one detective. Additionally, there was a grant-funded police officer that was eliminated, which would be restored if the police department could obtain 100% grant funding. It was presumed that the regular detective position was to be a mandatory vacancy; however, that was not the department's intention. The chart should instead indicate 116 total Police Department positions and 2 mandated vacancies, and an adjustment will be made prior to adoption of the budget. The appendix section of the budget includes a listing of grant-funded positions.

Mayor Hitchcock questioned how grant-funded positions were handled, to which Mr. King responded that, if funding is obtained, the position would be considered a regular employee of the City with the revenues coming from a grant. If grant funding for one position were to cease, there would most likely be enough latitude to absorb that position; however, it becomes a much more difficult decision if the grant were for multiple positions. In that case, serious consideration would need to be given before hiring the grant funded positions to ensure whether or not the City could absorb the additional staffing. The City does not have a formalized system in place regarding grant-funded employees.

Council Member Hansen added that, before a grant is accepted, the details should be clear up front on positions, funding, and the affect on the City once funding ends.

- Part-time staffing is 51 full-time equivalent employees, or 252 part-time employees.
- There are 24 mandated vacancies in the general fund and 19 in electric utility.
- At the request of Council last year, staff prepared a table listing all of the proposed position changes, and Mr. King highlighted the major changes:
 - The Fire Department proposed that 3 firefighter positions be upgraded to fire engineer positions, for a total of 21 fire engineers. Additionally, in order to maintain the level of 18 firefighters, it was also proposed that 3 firefighters be added. The increase to the Fire Department's budget is not related to these personnel changes because the funding will come from the anticipated reduction in the overtime budget. The Fire Department originally requested six additional firefighters.
 - It was also proposed that the title of City Engineer be changed to City Engineer/Deputy Public Works Director, with no compensation change, in order to create a clear delineation of the chain of command and the succession within the Public Works Department.
 - The water/wastewater superintendent position has been vacant for several years, and it was proposed that it be filled with an engineering requirement as a minimum qualification – no change in compensation.

- The water conservation officer position was recommended to be eliminated and exchanged for a water services technician.

Mayor Hitchcock questioned if the plan to reclassify three firefighters into fire engineers would consequently reduce the actual positions needed to relieve the forced mandatory overtime.

Mr. King responded that one issue is the minimum staffing requirement. Generally, there should be two above the minimum staffing requirements for the four stations; however, due to vacation, sick leave, or call out, there are not enough firefighters available, which create a forced overtime situation. The other issue is that only fire captains and fire engineers are qualified to drive the fire apparatus; not firefighters. A larger pool of fire engineers would alleviate the problem of having available apparatus drivers because of the minimum staffing level requirement.

Council Member Hansen stated that the Fire Department spent its entire overtime budget in the first six months of the current budget year and Council was requested to make a mid-year budget adjustment. He believed this proposal was a smart move, but he cautioned that, with the potential for workers compensation injuries or unforeseen circumstances, there could still be a significant overtime budget at the end of year, as well as the need to fund the three additional positions.

In reply to Council Member Hansen, Mr. King stated that some of the position changes will include increases to salaries, such as those recommended by the Library Board of Trustees; however, most of the remaining positions should not result immediately in any salary changes. The proposal for the wastewater plant operator is to add a third level to allow for advancement due to the increased standards set by the State Department of Health and Services – there would be a cost impact down the road, but not immediately. In the case of the vacant water/wastewater superintendent position, various employees were working out of class for a number of years and receiving compensation, and the determination was made to reclassify those positions in order to institutionalize the out of class pay they were receiving.

In response to Mayor Pro Tempore Johnson, Mr. King stated that, with the exception of the few examples highlighted, he did not anticipate salary increases for the proposed position changes affecting the 2006-07 budget; however, there may be some down the road in future budget years. The change for the dispatchers bargaining unit was a mutual request among the employees so that supervisors would be removed from those they directly supervise. Pay and benefit should be the same for each bargaining group.

- General fund revenues match up against expenditures, and it is anticipated that the year will end in a better position than the projected \$1.5 million fund balance. General fund revenues have increased: sales tax revenues by 7% and property tax by 11.5%. Over the last five years, City revenues have increased by 13%, but at the same time, expenses have increased by 27%. There are approximately 100 different general fund revenues. The largest single-source revenue is sales tax, which includes sales, Proposition 172, and the “trip flip” sales taxes, and that equals \$8 million. Investment earnings are \$140,000, and it was pointed out that, as the reserves decrease, the ability to gain money off of interest earnings is depleted as well.

Finance Director Krueger added that, during the course of the fiscal year, the general fund has a fund balance of \$1.5 million; however, most of the fund balance is comprised of assets other than cash (i.e. accounts receivables). Very seldom during the course of a fiscal year is there cash in the general fund. In the past when there was a healthy electric utility cash balance, there was enough cash in the pool to help with cash flow in all of the funds. As the City heads toward the 15% reserve level, it is expected that the general fund would have a positive cash flow and, as a result, there would be an increase in investment earnings.

- Lodi is in the mid-range of its neighboring cities on property tax per capita. Only 16.67% of property tax received goes directly to Lodi. Much of it goes to the state (27.72%), county (27.35%), and school districts (21.78%). Another 6.67% goes to various special districts. Since 1993, a percentage of the property tax has been flowing back to the state, and voters recently passed Proposition 1A, which stopped the Educational Revenue Augmentation Fund shift from increasing. As a result, the City should begin receiving \$600,000 to \$700,000 more in property taxes.
- Lodi is at \$144 million in sales tax per capita, which takes into consideration only the residents inside the City limits. The per capita number would decrease if Woodbridge or the surrounding area populations were factored into the equation.
- Personnel assets are 76% of the general fund, which is 1% higher than last year.
- In the general fund, the Fire Department allocated money specifically for emergency preparedness in the amount of \$304,000.
- The general fund contribution to the Community Development Department was reduced by \$50,000. The goal is for private development to pay for its own costs, and, with the recent adjustment in fees, the department has become more self-supporting.
- The economic development position was proposed to be restored in the City Manager's Office and is budgeted for six months. The Lodi District Chamber of Commerce expressed the need for an economic development position, and staff has a variety of tasks for the position to undertake.
- A street fund was established, which includes the revenues and expenditures associated with street maintenance.
- This budget addresses the City's self-insured retention amount, which the City of Lodi established in the mid-1980s. The deductible was \$500,000, and it has not been changed since then. Staff has researched the matter and determined that if the self-insured retention was lowered to \$250,000, the City could save \$122,000.

Mayor Hitchcock questioned if the City would still belong to the Joint Powers Authority, which covers anything over \$500,000, to which Mr. King replied in the affirmative.

- Staff's intention regarding direct cash donations was to equalize the donation amounts between the various organizations and arrive at a reason for the amounts. The funds would come from the economic development portion of the budget.
 - Lodi Arts Commission – \$35,300, which is equal to a quarter of payroll and benefits for a mid-management position (i.e. an economic development professional).
 - Downtown Lodi Business Partnership (DLBP) – \$35,300, with the same calculation as above.
 - Lodi Conference and Visitors Bureau (LCVB) – \$94,100, which takes the base figure of \$35,300, plus two-thirds of the fiscal year 2005-06 contribution over the base. Mr. King pointed out that this figure is less than what was requested by Nancy Beckman, LCVB Executive Director, in her letter to Council (filed).
 - Lodi District Chamber of Commerce – \$1,903, equals annual membership dues.
 - Lodi-Tokay Rotary Club fireworks – \$18,000.
 - San Joaquin Partnership – \$30,000. Mr. King recommended that, before the money is delivered, Council discuss the mission and relationship between the Partnership and the City.

In response to Mayor Hitchcock regarding the rationale behind the quarter of mid-management salary and benefits, Mr. King stated that these are economic development functions and he compared them to the position of an economic development coordinator.

Mayor Hitchcock agreed that DLBP and LCVB could be linked to economic development; however, she did not see the connection to the Lodi Arts Commission. She expressed concern about the San Joaquin Partnership and whether the City has received benefits from that affiliation. The increase in visitors and tourism and the affects of the wine industry on the downtown is a direct result of the DLBP and LCVB, not the Partnership.

Council Member Hansen concurred with Mayor Hitchcock regarding the San Joaquin Partnership and supported the concept of tying reporting criteria to the funds. Mr. Hansen expressed opposition to the reduction in the LCVB funding as its functions are an investment in this community and further voiced support for the Director's recommendation of a \$15,000 reduction.

City Manager King stated that his intention was to gradually decrease the cash donations to the LCVB over the next budget years. The overall funding for the LCVB has increased due to the 9% transient occupancy tax (TOT), one-third of which goes directly to the LCVB. The City's contribution plus the one-third of TOT is equivalent to \$250,000 that goes to LCVB.

Mayor Hitchcock believed that the LCVB serves as the economic development position because of its knowledge and expertise and she was not favor of filling an economic development position.

Mayor Pro Tempore Johnson pointed out that the LCVB is currently in the process of moving its office and is faced with higher costs, which needs to be taken into account. With regard to the San Joaquin Partnership, the long-standing problem has been that Lodi does not have a product for the Partnership to market (i.e. no industrial land, large parcels, etc.). He questioned why the economic development position was budgeted for only six months and stated that filling it now might be premature.

Mr. King stated that the economic development position was budgeted for six months because it was anticipated that the position would not be filled until mid-year.

Council Member Beckman requested feedback on future discussions with the San Joaquin Partnership and that the discussions include how the role of an economic development position would tie into it. He was prepared to go forward with the \$30,000 cash donation to the San Joaquin Partnership and with the economic development position for six months, with the caveat that it be revisited prior to the position being approved by Council.

Mayor Pro Tempore Johnson stated that the San Joaquin Partnership offered to make a presentation to city councils in San Joaquin County regarding its Angelo Study, which is the Partnership's new master plan for the next several years, and he suggested that this be scheduled in the near future.

Mayor Hitchcock preferred that Lodi makes its own vision, rather than the San Joaquin Partnership, and that Lodi first determine its vision through the general plan.

- On May 18, the Lodi Finance/Budget Committee reviewed the following three components of the budget:
 - Direct cash donations – endorsed staff's recommendations;
 - Part-time Youth Commission liaison position at Hutchins Street Square – recommended the position be retained for the budgeted amount of \$15,000; and
 - Three versus six firefighters, plus three fire engineers – recommended three firefighters plus the three fire engineers.
- The electric utility reserve is \$1.5 million, and it was hoped to be over \$3 million.
- The library fund unreserved fund balance is \$540,000, which is well above the 15% standard, and there is anticipated to be an increase in revenue.

- The water fund balance unreserved portion is \$830,000.
- The wastewater fund includes a large capital project, which is offset by bond proceeds.

Council Member Hansen questioned if the library unrestricted fund balance is minus the library capital project, to which Mr. King replied in the negative. He added that the heating, ventilation, and air conditioning issue remains unresolved in this budget.

Police Department

Police Chief Adams reported that the Police Department budget reflects an increase of \$1,347,000, or 10%. The increase is due to negotiated costs of living increases and benefits; new line items for fleet maintenance and liability and damage; and the cost of adding back a lieutenant position, which Council approved mid-year. All sworn police officer positions will be filled, and there is a mandated vacancy of three, which includes one special assignment dispatcher-jailer, one records clerk, and one grant-funded detective. There was a non-grant detective position still showing as one of the three vacancies, and it was requested that it be addressed prior to finalization of the budget. The Police Department will not fill the grant-funded detective position until it can secure 100% grant funding. Staff anticipates in the next year that state funds may become available for an auto theft task force in San Joaquin County. Police Department 2005-06 accomplishments include:

- \$148,450 in overtime savings and \$293,000 in salary savings;
- Significant cost savings and ability to deliver excellent service through the usage of 100 senior volunteers in the Partners Program. The cadets, reserves, and shelter volunteers continue to support Police Department efforts;
- Involved in the Delta College promotion to bring a Delta campus to Lodi;
- Worked with Code Enforcement Division to help with blight identification; and
- Dealt with terrorist arrests in the community and maintained good relationships with various segments of the community and with Federal authorities.

2006-07 emphasis includes:

- Enhance efforts to curb auto theft;
- Continue community policing efforts to seek partnerships wherever possible;
- Hire eight to nine police officers in the next year; and
- Maintain emergency preparedness capabilities and staff training.

In regard to dispatch supervisors moving into another bargaining unit, this request was mutually agreed upon by dispatch supervisors, the dispatch association, and police department management.

Council Member Hansen questioned what the accurate number of sworn police officers is, to which Chief Adams stated that the actual number is 77 plus one vacant grant-funded position. It was the non-grant-funded position that was not included in the budget, and still needs to be.

Mr. Hansen stated that he preferred the Police Department to be funded at the level it was when he retired as Chief six years ago, which was 78 full-time sworn positions.

Mr. King explained that the total positions chart lists 116 positions and 3 mandated vacancies, but it should be reduced to 2 mandated vacancies, which would allow for budgeting of the additional detective position. If the Police Department obtains funding for the grant-funded position, the total positions would increase to 117.

Mayor Pro Tempore Johnson stated that the controversy regarding Stockton fire dispatch has not been resolved and questioned how it would affect the Police Department if that function were brought back and it was one dispatcher position short.

Chief Adams stated that, to provide dedicated fire dispatch, an additional four to five dispatchers would be needed. The reason for going to Stockton dispatch was to have dedicated fire dispatch that did not cross between police and fire. The function is difficult

on police dispatchers, because fire dispatch has a different protocol. Stockton dispatch is still a reasonable deal because the City could not provide dedicated fire dispatch for the same amount of money.

Mayor Hitchcock questioned if the 33% increase in the Police Department budget from 2003-04 to 2004-05 was attributed to the maintenance and operation of the new police facility, to which Chief Adams replied in the negative. Additionally, Mayor Hitchcock questioned if the Police Department experienced similar issues as the Fire Department regarding mandated overtime and personnel costs that could be addressed by hiring additional police officers.

Chief Adams stated that the Police Department does not have the same issue of staffing engines. It does have minimum staffing standards for patrol shifts; however, the Police Department has other areas from which to pull officers in order to cover shifts.

Mr. Krueger commented that the 33% increase in the Police Department's 2004-05 budget was due to the first-time accounting for workers' compensation and medical, dental, and vision insurance in departmental budgets.

Mayor Pro Tempore Johnson commented that crime statistics show a decrease; however, calls for service rose, and he questioned what might have caused that.

Chief Adams stated there are many factors that could account for the rise in calls for service, such as population shifts, a vibrant downtown that attracts people from all over the area, and community oriented policing, which encourages citizens to contact the Police Department when they see something suspicious.

In response to Council Member Hansen, Chief Adams confirmed that he has no intention of pulling out the bicycle officers from the downtown.

Council Member Beckman commented that he supported investigating the possibility of reinstating the sworn police officer level to 78 positions.

Fire Department

Fire Chief Pretz reported that the Fire Department budget for 2006-07 increased by \$229,000 and personnel increased from 61 to 64, which included filling the 3 frozen positions and adding 3 firefighter positions. The following 2005-06 accomplishments were highlighted:

- Completed the self-contained breathing apparatus upgrade through a fire act grant in conjunction with several fire districts; the City obtained \$300,000 in equipment for \$30,000;
- Used the remaining money from the fire act grant to move into the City's Geographical Information System, which will assist staff on station location, response times, etc.; and
- Implemented the fire protection equipment plan review and inspection program, and in the past year collected \$100,000.

2006-07 emphasis includes:

- Continue to work with the Police Department and Delta College to establish joint police/fire training. Staff has lobbied for federal and state funding;
- Continue to work on the overall strategic plan regarding relocating and rehabilitating the fire stations; and
- Adopt the anticipated new state fire code.

Chief Pretz explained that the staffing needs and overtime issues were approached in two ways: 1) A staffing needs study was performed, which calculated the number of hours worked, less leave for vacation, sick, holiday, etc. for a typical veteran firefighter position, and the staffing factor resulted in 54 employees; 2) The "break even" point was determined, which is when the amount paid for overtime versus salaries becomes equal. That equalization number is the number of bodies needed to fill those positions, which also

equaled 54. The Fire Department currently has 48 employees on shift. Increasing the number to 54 would be achieved by hiring back the 3 frozen positions and adding the 3 new positions. Chief Pretz predicted that this would reduce the number of sick leave hours. The primary reason behind this request was to provide more bodies to relieve the overtime and use the money from overtime savings to pay for those salaries. Additionally, the Insurance Services Office recently re-rated the Fire Department from 76 points to 72 due in part to the staffing levels. In the last five years, the Fire Department has been short-staffed almost every year due to workers compensation, termination, or resignations/retirements. The fire engineer position is critical to the Fire Department because they are authorized to drive the fire apparatus; whereas, firefighters are not. Fire engineers are also used as acting firefighters and fill in when the department is short staffed.

Council Member Hansen questioned if the Chief was confident that the overtime would stay at the projected \$389,000 if the three positions were added, to which Chief Pretz replied in the affirmative.

In response to Mayor Hitchcock, Mr. Krueger confirmed that the Public Employees Retirement System contribution was reduced in public safety budgets due to smoothing it out over 30 years; however, there was a slight increase to miscellaneous employees.

Mayor Hitchcock questioned what is included in the sublet service contracts account, to which Chief Pretz answered that it includes sublet contracts for the Stockton dispatching services, maintenance contract for radios, and various other services.

In answer to Mayor Hitchcock, Chief Pretz stated that he believed it was a prudent decision to contract with Stockton dispatch because it costs half of what the City would pay for the same level of service for dedicated dispatchers. The city of Stockton has assured staff that its costs would not increase significantly as they had in the past.

RECESS

At 9:20 p.m., Mayor Hitchcock called for a recess, and the City Council meeting reconvened at 9:34 p.m.

B. REGULAR CALENDAR (Continued)

B-1 Electric Utility Director Morrow reported that the Utility is moving from a negative \$7 (Cont'd.) million position in this fiscal year to a balanced budget next year; however, this budget does not build up the reserve level. There are no rate increases included in this budget. The costs of general fund operations are proposed to stay flat, and this is the third year in a row that contributions toward City departments for services would stay flat. Normal capital projects associated with the delivery of electricity is now included in the rates, reducing the need to use bond money. Northern California Power Agency (NCPA) costs will decrease by \$2.5 million, and the City has locked down most of its open position for power during the next fiscal year. Revenue projections for next year are realistic. Mr. Morrow reviewed the following 2005-06 accomplishments:

- Hired a new Electric Utility Director;
- Closed most of the open position for energy;
- Performed an electric cost of service study;
- Implemented a market cost adjustment and "trued up" the electric rates;
- Developed a five-year financial pro forma and worked with rating agencies on financial planning;
- Promoted new projects for the Utility that will be critical in order to bring stability and base load energy to the City's portfolio. The two projects are the Resource 500 and the Lodi project at White Slough; and
- Adopted a risk management plan and established a risk oversight committee.

2006-07 emphasis includes:

- Review staffing levels of the Electric Utility. There are a number of key management positions requested to be filled. Electric Utility is composed of three divisions: construction; engineering and operations; and business planning/rates/resources. Each has a division manager, two of which are vacant;
- Work on long-term resource opportunities;
- Update the financial plan and potentially identify new revenue sources;
- Review rate structures as there are customers who may not be on the correct rate schedule;
- Work on economic development incentives;
- Explore the transmission line to the west; and
- Examine how costs are allocated to new development, so that development pays the full incremental cost of extending electric services to those customers.

In response to Mayor Pro Tempore Johnson, Mr. Morrow stated that discussions regarding the transmission line have taken place with Western Area Power Administration (WAPA) and NCPA, and both organizations realize how important it is for the City to integrate with WAPA's network, as it could help the City separate from the California Independent System Operator (CAISO), as well as assisting with the Lodi project at White Slough. Mr. Johnson stated that the last time this issue was brought forward the property owners were strongly opposed to it.

Mr. Morrow indicated that there is presently one pipe that brings power into Lodi, which comes from the Lockeford substation of the Pacific Gas & Electric system. One pipe is not reliable; the City needs diversity and a second supply. One suggestion was to move the line further to the north; although, the benefits of tying it in with White Slough or the Lodi project would be lost; however, there may be a better route.

Council Member Hansen commented that the major change between the previous attempt and now is the skyrocketing cost of energy and chances are greater that it could be successfully done. He supported the idea of moving off of the CAISO grid and onto WAPA's grid. CAISO is very unpredictable in the costs it passes onto the City; whereas, WAPA would be a stable source, which is a benefit to residents and businesses.

Council Member Beckman questioned how Electric Utility is able to function with a 30% workforce vacancy, to which Mr. Morrow responded that the department also has seven contract positions—four full time and three part time. He hoped to be able to integrate some of those positions into the permanent budget. For the time being, the department is getting the job done with the current staffing level; although, it may be necessary to increase the number if development increases.

In response to Mayor Hitchcock, Mr. King stated that the 19 mandated vacancies represent approximately \$1.6 million.

Mayor Pro Tempore Johnson commented that at one time there was a high demand for skilled line personnel and that it was often difficult to fill the need. He questioned if this was still an issue and if the City was assured of having skilled personnel available.

Mr. Morrow stated that most of the contract line personnel were either brought on board permanently or moved onto positions elsewhere. None of the seven contract positions are line personnel; however, there are seven mandated vacancies for line personnel. He believed that the need for line personnel at this point was not warranted, but it may be necessary to fill those vacancies should development increase. Those seven positions were approved in last year's budget, and they have been kept vacant for this year.

Mr. King stated that staff has not analyzed the staffing needs and there is a need to look at the overall organization. Previously, department heads were allowed to hire contract employees directly without going through the City's recruitment process, but the downside was that control was minimized and that Human Resources could not attest to the selection process.

Mayor Pro Tempore Johnson questioned if there was an expectation that contract positions would automatically transition into full-time positions after a certain period of time. Mr. Schwabauer replied that the issue is whether the contract position is limited to a short-term special project. The civil service system is designed to prevent using contract employees indefinitely; however, there is no cast-iron rule as to when the position becomes permanent, and Mr. Schwabauer stated he would need to evaluate each individual position to make that assessment.

Public Works Department

Public Works Director Prima reported that the total public works budget was \$72 million. In Administration and Engineering, there are 24 personnel with 2 vacancies that have been frozen for quite some time. Mr. Prima highlighted the 2005-06 accomplishments:

- Lower Sacramento Road widening project;
- Century Boulevard extension, which is one of the first new streets in Lodi in 30 years that was not directly associated with new development;
- Worked closely with the San Joaquin Council of Governments (SJCOG) on the regional traffic fee and Measure K renewal;
- Updated the sidewalk maintenance policy and raised awareness in Lodi about the condition of and responsibility for sidewalks;
- The water meter pilot project was in response to a state mandate. Staff received initial data on the 400 pilot meters, which indicates a variation in water usage; and
- Made progress on the PCE/TCE remediation and funding.

2006-07 emphasis includes:

- White Slough Phase 3, which will upgrade the remainder of the secondary plant to provide a full 8.5 million gallons a day capacity;
- Rehabilitation of the pipeline between Lodi and the White Slough treatment plant. The most recent consultant recommended chemical additions to reduce the amount of corrosion from the hydrogen sulfide. Staff conducted tests, and the conclusion was that this would not be very effective. The recommendation this budget year is to perform a video inspection of the line in preparation for the project;
- Proceed with long-term water meter implementation program. The water capital budget does not include funding for water meters;
- Implementation of the Woodbridge Irrigation District water supply;
- Adjust the street fund to remove the general fund portion of streets;
- Work with SJCOG to secure federal funding to upgrade the transit maintenance facility; and
- Involvement in the general plan update.

The Streets Division budget has 2 mandated vacancies, and the Fleet and Facilities budget has 17 staff with 3 vacancies (2 in fleet maintenance and 1 in facility maintenance). The Transit Division budget has no significant changes.

In response to City Manager King, Mr. Prima explained that, if the City were to cease all public transit operations, the \$4.7 million budget would not flow back into the general fund; in fact, there would be a negative impact to the general fund budget in that certain costs of services, which are charged to transit, would cease without the transit program. Ceasing transit operations would result in an adverse impact to the general fund.

Council Member Hansen reported that the City of Lodi has not yet adopted the Measure K Expenditure Plan and questioned when that would come before Council, to which Mr. King stated that it is anticipated to be on the June 7 agenda.

Parks and Recreation Department

Parks and Recreation Director Goehring reported that the 2006-07 budget is \$3.9 million, which breaks down into \$1.7 million for recreation and \$2.1 million for parks. There is a

\$275,000, or 7.4%, increase over fiscal year 2005-06. The increases were a result of workers compensation, PERS, liability and damages, and vehicle replacement and repair. Parks and Recreation currently employs 31 full-time employees and has 3 mandated vacancies (an administrative clerk in recreation and a maintenance position and project program specialist in parks). The department relies heavily on part-time positions and employs 250 to 275 part-time employees per year, which is equivalent to 71,000 labor hours and a full-time equivalent factor of 34.19 positions. Estimated revenues are \$936,000; however, this was a very conservative estimate and does not reflect grant revenues from the state for the after school programs. Staff anticipates that revenues may actually exceed \$1 million. Mr. Goehring reviewed the 2005-06 accomplishments as follows:

- Facility uses exceeded 16,000;
- Registered 714 teams, which calculates program registrants and/or event attendees in excess of 129,000 people;
- Responsible for 1,500 to 1,800 volunteers on an annual basis;
- Updated program and facility fees to meet cost recovery targets. Fees were increased for adult sports, JBL basketball, flag football, competitive soccer, and facility rentals, and the after school program raised its fees as well;
- Commenced work on five capital projects, which were funded with 2000 Bond Act monies: Beckman Park restroom replacement, Henry Graves Park restroom replacement, Legion Park community room roof repair, Kofu Park community room roof repair, and Peterson Park project to bring the playground equipment up to Americans with Disabilities Act standards. Total construction value was \$525,000;
- Reinstated the Lodi Lake tour boat program after two years of being off of the lake and river. It is estimated the number of tours this season will be 35, but with water in the lake on a year-round basis the number will most likely increase. Estimated revenue for this program is \$7,000 to \$9,000;
- Completed construction of 2.66-acre Century Meadows Park, which is the first "turn-key" park project, meaning the City designed it and the developer built it and gave it back to the City. The estimated construction value is \$500,000;
- The Parks Division implemented a zone maintenance concept in response to the staff shortage. The community was divided into five zones, with a crew leader and crew responsible for park maintenance for certain zones. Staff is presently evaluating the efficiency and effectiveness of the program; and
- Implemented the "no feeding" ordinance at Lodi Lake to address issues with geese.

The 2006-07 emphasis includes:

- Continue to maintain a high level of effective programming and services with less staff and a smaller budget;
- Attempt to maintain program cost recovery goal of 35% and strive to cover 100% of budget costs in the fee-based programs;
- Annually review program fees and charges to accomplish budget targets;
- Create and implement a budget review task force that will annually review fees and charges and make recommendations to the Parks and Recreation Commission, which would be forwarded onto Council for review and approval;
- Encourage increased participation in programs and facility uses by developing new and creative marketing efforts and introducing new programs, camps, and specialty classes, with the caveat that they pay for themselves. For example, a new after school program site may be introduced at Woodbridge Elementary School; however, the program must show that it will cover its costs, or it will not open; and
- Foster good relationships with the community. There is a \$50,000 to \$60,000 value per year that is donated in the form of labor, materials, and volunteerism from the

community, service clubs, and other organizations, which is vital to the success of Parks and Recreation.

Council Member Hansen questioned if there has been an impact on programs due to fee increases, to which Mr. Goehring stated that the spring and summer sports are not seeing a negative impact from the fee increases. One issue, however, is that there are sports opportunities available in other leagues and there are prime facilities being built and paid for by parents of participants, with which Lodi cannot compete.

In response to Council Member Hansen, Mr. Goehring stated that there is no plan to increase fees in the 2006-07 budget; however, the new budget task force will evaluate the fee structure and cost recovery goals, and there could be a mid-year fee adjustment.

In answer to Mayor Pro Tempore Johnson, Mr. Goehring stated that the hiring process is tedious and part-time personnel are hired under the same criteria as full time personnel. The department has experienced difficulty in generating interest in life guards and staff positions at Lodi Lake and Blakely Pool, which is not related to the recruitment process.

Mayor Hitchcock indicated that she had received a call from the principal of Woodbridge School who was concerned about whether or not an after school program could be implemented. She believed it was a policy decision for Council to determine if a program should pay for itself or not. There is inequity in the system if there are some programs allowed to operate that are not self-sufficient and others that are new and cannot immediately pay for themselves. She believed that it took a while for most of the after school programs to get started and realize the necessary revenues.

In response to Mayor Hitchcock, Mr. Goehring confirmed that all of the after school programs are paying for themselves and that they work under a different set of rules today than when most were first opened. He explained that, regardless of the number of enrollees in the program, it still needs to be staffed and materials purchased.

Susan Bjork, Management Analyst, confirmed that there is an after school program at every public school within the City limits of Lodi.

Council Member Hansen suggested that the appropriate staff collaborate to improve the hiring practice and simplify the process, to which Mr. King assured Council that steps would be taken to arrive at a solution, but he cautioned that there are matters that cannot be overlooked, such as nepotism and child labor laws. Council Member Hansen suggested utilizing the work experience program through the high schools to fill these positions.

Mr. King stated that an important policy decision for Council is how tax money should be spent and what should be subsidized with tax money. In regard to after school programs, the question becomes should each school site be self-supporting, or should some sites subsidize others.

Mayor Hitchcock believed that going site by site was not realistic or fair, and it should instead be program wide.

Council Member Beckman requested detailed information on the grant-based programs, the fee-based programs, participation, and the school sites and suggested that this may be a topic for a Shirtsleeve Session.

Mayor Pro Tempore Johnson stated that the Council approved a policy that after school programs be 100% self sufficient. He expressed support for implementing an equitable policy on recreational activities, so that everyone gets a fair shake in the process.

MOTION / VOTE:

There was no Council action taken on this matter.

B-2 "Establish recruitment salary control point for the position of City Clerk"

City Manager King explained the process of determining the recommended control point of \$6,540 for the position of City Clerk. Staff looked at West Sacramento and Davis, split the difference to establish the control point, and then factored 10% above and below the control point to come up with the suggested salary range of \$5,932 to \$7,210 per month.

MOTION / VOTE:

The City Council, on motion of Council Member Beckman, Hansen second, established a recruitment salary control point of \$6,540 per month, which allows for a salary range of \$5,932 to \$7,210 per month to be used in recruitment material for a new City Clerk. The motion carried by the following vote:

Ayes: Council Members – Beckman, Hansen, Johnson, and Mayor Hitchcock

Noes: Council Members – None

Absent: Council Members – Mounce

C. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 11:10 p.m.

ATTEST:

Jennifer M. Perrin
Deputy City Clerk

**CITY OF LODI
 INFORMAL INFORMATIONAL MEETING
 "SHIRTSLEEVE" SESSION
 CARNEGIE FORUM, 305 WEST PINE STREET
 TUESDAY, JUNE 13, 2006**

An Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was held Tuesday, June 13, 2006, commencing at 7:00 a.m.

A. ROLL CALL

Present: Council Members – Beckman, Hansen, Johnson, and Mayor Hitchcock
 Absent: Council Members – Mounce
 Also Present: City Manager King, City Attorney Schwabauer, and Deputy City Clerk Taylor

B. TOPIC(S)

B-1 "Presentation regarding expansion plan for Lodi Memorial Hospital"

Joe Harrington, President and Chief Executive Officer of Lodi Memorial Hospital (LMH), distributed informational packets detailing the expansion plan (filed) and explained that there are two forces driving the LMH project. The first is the Seismic Safety Act, known as SB 1953, passed in early 1994 following the Northridge earthquake in which two hospitals in southern California crumbled. The purpose is to regulate new building standards to ensure that hospitals could sustain an earthquake and continue to provide treatment during and following an earthquake. The first set of standards must be met in 2008, and the second, more stringent standards go into effect in 2030. Standards are uniform throughout the state; however, only two seismic zones exist in California. Through lobbying efforts, revisions to the Act requirements have allowed LMH to receive a delay in 2008 standards to 2012 for both the east campus at Fairmont Avenue and Vine Street and the west campus at Lower Sacramento Road and Vine Street. The delay was granted because LMH is located in a less active zone and it is the only hospital facility within the immediate geographic area. Portions of the original structure will be available for use through 2012, and additional portions, with upgrades, will be functional through December 31, 2030. The second driving force for the project is the need for more in-patient beds due to overall growth in the community, a higher senior population which requires more hospital care, and an increase in patients from the north Stockton area. In 2001, LMH held, on average, one to two patients waiting for admission into an in-patient room during peak (winter) season. In 2005-06, LMH is averaging nine patients waiting for beds, so the facility must increase the number of beds to address service area needs while meeting seismic standards.

Plans have been submitted to the California Office of Statewide Health Planning and Development (OSHPD) for review of a central plant to be completed in three phases – the new four story south wing (targeted to begin January 2007), replacement of the west wing with a new four-story structure, and between now and 2030, replacement of the original 1952 building with a four-story structure.

At the request of Mayor Pro Tempore Johnson, Mr. Harrington shared that consideration was given to construction at the current site versus searching for open acreage to build a new facility. It was determined that construction at the current site can occur with minimal interference by completing the project in stages and that using the existing property was both cost effective and allowed the facility to remain within the heart of the community. It is believed that the biggest obstacle will be the availability of parking for staff and patients and that future plans may include constructing a parking garage on the hospital campus.

Council Member Hansen shared that Sutter Gould may establish an out-patient facility in Lodi and asked what the industry allows in factoring growth when other medical facilities locate in Lodi. Mr. Harrington explained that LMH reviews the service area, calculates the number of in-patient admissions that will result from that population, and factors in the market share numbers from the state (reported voluntarily by California hospitals) to

establish a base total. Additionally, in response to Council Member Hansen, Mr. Harrington shared that the state has issued mandates without funding; however, some small, rural hospitals may still receive assistance to meet mandates while remaining open as the only facilities in their service areas available to provide medical care.

In response to Council Member Beckman, Mr. Harrington explained that structural security has been explored to ensure that protection and safety are key factors while keeping the building aesthetically pleasing and reflective of a warm and caring environment. He stated that, while funding is not readily accessible, \$3 million in grant funds is available through the State Department of Health Services and LMH is working to receive a portion of the funds. Council Member Beckman suggested that, if possible, the City of Lodi might also be in a position to provide assistance.

In reply to Mayor Hitchcock, Mr. Harrington explained that the state mandates a patient to nurse ratio of five to one, and like most hospitals, LMH experiences challenges in nursing staff shortages. He reported that approximately five years ago, LMH embarked on a campaign to recruit 25 Canadian nurses for a two-year program with a retention rate of 50 percent at the end of the program. With over 300 nursing positions, LMH currently has a vacancy rate of 12 to 15 nurses and will take advantage of the two-year program again this year. He shared that most LMH employees are long-term employees and Lodi area residents and that 68 percent of the nursing staff are San Joaquin Delta College nursing program graduates. Realizing the importance in supporting the future operation of the hospital, LMH and other area hospitals have contributed nearly \$500,000 to the Delta College nursing program, which will generate 20 more graduates in the next three years.

Tak Saito, Facilities Director at LMH, thanked City staff for its cooperation and support during the past year with project plans and explained that, in addition to the hospital, LMH now operates a number of clinics within the community. The original hospital was built in 1952 with a number of additions to the facility over the years, which have been examined to ascertain seismic structure conditions in response to SB 1953. Key design points to update the facility were the need for more in-patient beds to meet the growing needs in the service area, modernization of the facility, re-location of urgent care adjacent to the emergency room, and updates to the campus and parking areas.

Mr. Saito shared that the vision for the facility has focused on community access to the hospital, providing a healing environment, designing a scalable project based on construction in phases and available funding, accommodating state-of-the-art technology, improving the quality of care and services, and creating flexibility, adaptability, and support for dynamic growth. The master plan includes a 136,000 square foot addition slated to begin construction in early 2007, which will almost double the size of the current hospital and additionally complete the seismic upgrading and retrofitting of the existing facility. The new four-story structure will house the emergency and urgent care facilities on the main floor with connections to the existing three-story structure on levels one through three. Property has been purchased at the south end of the campus along Cardinal Street in preparation for construction and parking expansion. Meetings have been conducted with neighbors of the hospital campus to provide information and open communication regarding the design and construction.

NOTE: Council Member Beckman left the meeting at 8:00 a.m.

Mr. Saito reported that design elements for the building façade were created to blend into the community and a healing garden will be located near the main lobby between the new and existing buildings. Urgent care will be located adjacent to emergency, and both centers will be designed to meet emergency room standards and have access to medical diagnostic equipment. Floors one through three will house in-patient rooms, and nursing staff will be located throughout the floor rather than the current layout of one centralized workstation per floor. In-patient rooms will provide 236 square feet of living space for patients and their families and more functional space for nursing staff to provide care.

Mayor Hitchcock commented on the beautiful rooms and the overall design of the new building and asked if there is a possibility that the hospital will draw so many within and outside the community that it will be too small once it is completed. Mr. Saito noted that a state-of-the-art facility may provide a continued challenge in service and access to patients and that consideration will be given to future growth in determining the use of space in the next phase of construction. At the request of Mayor Hitchcock, Mr. Saito explained that, while the limited site size provides minimal growth potential, additional levels would not be aesthetically pleasing to the design. City staff and fire personnel were consulted about the design and did not support additional floors nor placing the helicopter pad on top of the facility.

Council Member Hansen commented on the increase in urgent care facilities in the community and inquired if this were causing additional strain on the hospital. Mr. Harrington shared that placing the urgent care facility next to the emergency room in the south wing was done for efficiency reasons. Urgent care closes at 10:00 p.m., so those seeking care at that point will come to emergency, many times with what would not be considered an emergency by hospital standards. The new design will allow a triage nurse to evaluate patients, determine the proper treatment area, and even allow for the shifting of personnel to where they are needed to deliver care. As part of the planning process, LMH looks monthly at need, capacity, and ability to afford improvements and new construction at a current cost of \$450 million to do everything. He shared that the future of the west campus will not be determined at this time, but it is currently providing a great deal of flexibility in allowing LMH to continue to provide services now and through the first phase of construction at the east campus. He explained that, under a different licensing category through the Department of Health Services, 15 acute rehabilitation and skilled nursing beds have been re-licensed as medical/surgical beds. In that facility, there is a 15 bed medical/surgical unit that takes some of the overflow of the hospital, and without that the emergency care unit holding area would have not only the current nine patients mentioned earlier, but another 15 patients awaiting beds.

In response to Council Member Johnson, Mr. Harrington reported that, looking at local competition activity, Dameron Hospital has received approval to build its central plant for expansion purposes and that St. Joseph's Hospital is building a new women's and children's center wing and will re-license and use the current center for medical/surgical beds in order to increase its capacity. He shared that in looking at LMH, Dameron, and St. Joseph's, demographics show 78 percent of business generates from within a five mile radius of each facility; however, ten years ago it was 90 percent. The increase in Lodi is mainly reflective of recent patient migration from north Stockton.

Council Member Johnson stated that many in the community may be surprised to learn that LMH is quite an economic engine in the community. Mr. Harrington shared that the hospital employs 1,250 employees, paying salaries and benefits of almost \$62 million. He added that preliminary estimates indicate that by 2013 the hospital will have 1,700 employees and generate an annual payroll of \$100 million. He stated that the vast majority of employees live in and around Lodi, so the money is being spent locally, providing strong economic support for the whole community.

C. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

None.

D. ADJOURNMENT

No action was taken by the City Council. The meeting was adjourned at 8:05 a.m.

ATTEST:

Jacqueline L. Taylor, Deputy City Clerk

**CITY OF LODI
INFORMAL INFORMATIONAL MEETING
"SHIRTSLEEVE" SESSION
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, JUNE 27, 2006**

The June 27, 2006, Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was canceled.

ATTEST:

Jennifer M. Perrin
Interim City Clerk

**LODI CITY COUNCIL
SPECIAL CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, JUNE 27, 2006**

A. CALL TO ORDER / ROLL CALL

The Special City Council meeting of June 27, 2006, was called to order by Mayor Pro Tempore Johnson at 7:01 a.m.

Present: Council Members – Beckman, Hansen, Johnson, and Mounce

Absent: Council Members – Mayor Hitchcock

Also Present: City Manager King, Deputy City Attorney Magdich, and Interim City Clerk Perrin

B. REGULAR CALENDAR

B-1 “Adopt resolution authorizing the continuation of expenditures from July 1, 2006 through July 6, 2006”

City Manager King reported that the resolution before Council was to allow the City to continue to expend money from the fiscal year 2005-06 budget for the period of July 1 through July 6, 2006. It is anticipated that Council will adopt the fiscal year 2006-07 budget at its regular meeting of July 5; however, staff will be prepared with a second continuing resolution, if necessary.

MOTION/ VOTE:

The City Council, on motion of Council Member Beckman, Hansen second, adopted Resolution No. 2006-125 authorizing the continuation of expenditures from July 1, 2006 through July 6, 2006. The motion carried by the following vote:

Ayes: Council Members – Beckman, Hansen, Johnson, and Mounce

Noes: Council Members – None

Absent: Council Members – Mayor Hitchcock

C. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 7:03 a.m.

ATTEST:

Jennifer M. Perrin
Interim City Clerk



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Approve Plans and Specifications and Authorize Advertisement for Bids upon Receipt of Authorization to Construct from Caltrans for the Stockton Street Asphalt Concrete Resurfacing Project (Kettleman Lane to 1,000 Feet South of Century Boulevard)

MEETING DATE: July 5, 2006

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the City Council approve the plans and specifications and authorize advertisement for bids for the above project.

BACKGROUND INFORMATION: This project includes furnishing and installing approximately 6,500 tons of asphalt concrete, pavement fabric, thermoplastic pavement striping and markings, traffic signal detector loops, adjustment of utility frames and covers to grade, and other incidental and related work, all as shown on the plans and specifications for the above project.

The existing pavement condition warranted resurfacing at this location. No changes are proposed to the existing striping and parking except to add Class 2 bike lane striping in conformance with the City of Lodi Bikeway Master Plan.

Traffic closures will be required to construct the project. The contractor may close portions of the roadway to through traffic for certain critical paving operations. The 400-foot section just south of Kettleman Lane may be closed to all traffic for up to two days. While this section of the roadway is reconstructed, detours will be set up. Finally, the entire project may also be closed to through traffic for one working day while the top lift of pavement is placed. Local traffic will be handled through the project. Notifications to the public will be mailed to property owners adjacent to the project limits and advertised in the *Lodi News Sentinel* to keep the public informed about the project staging and traffic controls.

FISCAL IMPACT: In the near term, maintenance costs will be reduced. As the pavement ages, pavement maintenance steps will be initiated.

FUNDING AVAILABLE: The money for this project has been fully funded through the State Transportation Improvement Program (STIP). A request for appropriation of funds will be made at contract award.

Project Estimate: \$741,000
 Budgeted: 06/07 fiscal year
 Planned Bid Opening Date: August 2, 2006

 Richard C. Prima, Jr.
 Public Works Director

Prepared by Tiffani M. Fink, Transportation Manager, and Mark Lindseth, Associate Civil Engineer
 RCP/TMF/MJL/pmf

cc: City Engineer
 Transportation Manager
 Senior Traffic Engineer

Associate Civil Engineer Lindseth
 Street Superintendent

APPROVED: _____
 Blair King, City Manager



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt resolution awarding the contract for playground improvements at Blakely Park, 1050 S. Stockton Street to AM Stephens Construction, Inc. of Lodi, CA (\$209,577.80)

MEETING DATE: July 5, 2006

PREPARED BY: Parks and Recreation Director

RECOMMENDED ACTION: That the City Council adopt a resolution awarding the contract for playground improvements at Blakely Park, 1050 S. Stockton Street to AM Stephens Construction, Inc. of Lodi, CA in the amount of \$209,577.80.

BACKGROUND INFORMATION: The playground improvements consist of the removal and disposal of the existing playground equipment, fi-bar surfacing material, concrete walkways, picnic area, and concrete curbing. The improvement work includes the installation of new concrete walkways, new handicap accessible playground equipment, new seamless poured-in-place safety rubber material, retro-fit work to the existing irrigation system, new park benches, new trash receptacles and new trees.

The project was advertised in two local area newspapers and nine building exchanges from April 22, 2006, through May 31, 2006. The bid opening took place on June 7, 2006. There were five general contractor plan holders for this project, and one bid was received. It is within 3.5 percent of the Engineer's Estimate.

Bidder	Location	Bid
Engineer's Estimate		\$202,704.75
AM Stephens Construction, Inc.	Lodi	\$209,577.80

FISCAL IMPACT: There is no direct impact to the Parks and Recreation Department budget for the Blakely Park playground improvements since Community Development Block Grant funds and the Lodi Soroptimist donations will be supporting the improvements of this project in its entirety.

APPROVED: _____
Blair King, City Manager

Adopt resolution awarding contract for playground improvements at Blakely Park, 1050 S. Stockton Street to AM Stephens Construction, Inc. of Lodi, CA (\$209,577.80)

July 5, 2006

Page 2

FUNDING AVAILABLE:	04-01 "Eastside Park Playground Projects" – CDBG Funds	\$ 266,200.00
	Lodi Soroptimist Donations	\$ 8,750.00

Ruby Paiste, Interim Finance Director

Tony C. Goehring
Parks and Recreation Director

Joseph Wood
Community Improvement Manager

Prepared by Steve Virrey, Parks Project Coordinator

TCG/SV:tl

cc: City Attorney
Sr. Civil Engineer Fujitani
Community Improvement Manager
Park Superintendent
Parks & Recreation Management Analyst
Purchasing Officer

RESOLUTION NO. 2006-_____

A RESOLUTION OF THE LODI CITY COUNCIL AWARDING THE
CONTRACT FOR PLAYGROUND IMPROVEMENTS AT BLAKELY
PARK, 1050 SOUTH STOCKTON STREET

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WHEREAS, in answer to notice duly published in accordance with law and the order of this City Council, sealed bids were received and publicly opened on June 7, 2006, at 11:00 a.m. for Playground Improvements at Blakely Park, 1050 South Stockton Street described in the specifications, therefore approved by the City Council on April 5, 2006; and

WHEREAS, said bids have been compared, checked, and tabulated and a report thereof filed with the City Manager as follows:

<u>Bidder</u>	<u>Location</u>	<u>Bid</u>
Engineer's Estimate		\$ 202,704.75
A. M. Stephens Construction	Lodi	\$ 209,577.80

WHEREAS, the City Manager recommends award of the contract for Playground Improvements at Blakely Park, 1050 South Stockton Street to A. M. Stephens Construction Inc., of Lodi, California.

NOW, THEREFORE, BE IT RESOLVED by the Lodi City Council that the award of the contract for Playground Improvements at Blakely Park, 1050 South Stockton Street be and the same is hereby awarded to A. M. Stephens Construction Inc. of Lodi, California in the amount of \$209,577.80.

Dated: July 5, 2006

=====

I hereby certify that Resolution No. 2006-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held July 5, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

JENNIFER M. PERRIN
Interim City Clerk

2006-_____



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Accept improvements under contract for playground improvements at Van Buskirk Park, 600 N. Pleasant Street and Hale Park, 209 E. Locust Street

MEETING DATE: July 5, 2006

PREPARED BY: Parks and Recreation Director

RECOMMENDED ACTION: That the Council accepts the improvements under the Van Buskirk Park, 600 N. Pleasant Street and Hale Park, 209 E. Locust Street contract.

BACKGROUND INFORMATION: The project was awarded to Diede Construction, of Woodbridge, CA, on December 7, 2005, in the amount of \$128,065.64. The contract has been completed in substantial conformance with the plans and specifications approved by City Council.

The contract completion date was June 9, 2006. The final contract price was \$133,024.67. The difference between the contract amount and final contract price is mainly due to two contract change orders which removed the old horseshoe pit area at Hale Park and installed new concrete curbing at Van Buskirk Park.

Following acceptance by the City Council, the Park Superintendent will file a Notice of Completion with the County Recorder's office.

FISCAL IMPACT: There is no direct impact to the Parks and Recreation Department budget for playground improvements. CDBG funds supported the installation of this project in its entirety.

FUNDING AVAILABLE: Community Development Block Grant Funds \$138,600.00

Ruby Paiste, Interim Finance Director

Tony C. Goehring
Parks and Recreation Director

Joseph Wood
Community Improvement Manager

Prepared by Steve Virrey, Parks Project Coordinator

TG/SV:tl

cc: Sr. Civil Engineer Fujitani
Purchasing Officer
Community Improvement Manager

APPROVED: _____
Blair King, City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt resolution accepting improvements under contract with A.M. Stephens Construction Company for Henning Substation Driveway and Parking Lot Expansion (EUD)

MEETING DATE: July 5, 2006

PREPARED BY: Electric Utility Director

RECOMMENDED ACTION: That the City Council adopt a resolution accepting improvements under contract with A.M. Stephens Construction Company for Henning Substation Driveway and Parking Lot Expansion.

BACKGROUND INFORMATION: The project was awarded to AM Stephens Construction Company, of Lodi, on September 21, 2005, in the amount of \$60,440.00. The contract has been completed in substantial conformance with the plans and specifications approved by the City Council.

This project provided access to Henning Substation from Kettleman Lane, through the recently-installed gate at the southeast corner of the substation and installed handicap ramp, sidewalk, fencing and miscellaneous site improvements around the relocated modular feline unit. This new substation entry eliminated the need for access through the MSC yard, resulting in much-needed additional storage space within the yard. The design of the driveway allows tractor/trailer rigs (lowboys) hauling large power equipment, such as transformers and circuit breakers, to enter and exit directly from Kettleman Lane. The modular feline unit provides expanded space for the Animal Shelter as agreed to by the City in 2004. (A memorandum of understanding between the City and People Assisting Lodi Shelter – PALS – was approved by the Council at its November 17, 2004 meeting.)

The final contract price was \$65,138.00. The difference between the contract amount and the final contract price is mainly due to change orders in the total amount of \$4,698.00 to provide additional labor and materials required for project ADA compliance.

Following acceptance by the City Council, a Notice of Completion will be filed with the County Recorder's office.

FISCAL IMPACT: There will be a slight increase in maintenance costs for the sidewalk and driveway improvements.

FUNDING AVAILABLE: Business Unit No. 161669 - Final Contract Amount: \$65,138.00

Ruby Paiste, Interim Finance Director

George F. Morrow, Electric Utility Director

Prepared By: Demy Bucaneg, Jr. –P.E., Sr. Power Engineer
GM/DB/ist
Attachments
cc: Joel Harris, Purchasing Officer

APPROVED: _____
Blair King, City Manager

RESOLUTION NO. 2006-_____

A RESOLUTION OF THE LODI CITY COUNCIL ACCEPTING
IMPROVEMENTS UNDER THE CONTRACT FOR THE HENNING
SUBSTATION DRIVEWAY AND PARKING LOT EXPANSION, AND
AUTHORIZING AND DIRECTING THE ELECTRIC UTILITY DIRECTOR TO
FILE A NOTICE OF COMPLETION WITH THE COUNTY RECORDER

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WHEREAS, the contract for the Henning Substation Driveway and Parking Lot Expansion Project was awarded to AM Stephens Construction Company of Lodi, California, on September 21, 2005, in the amount of \$60,440.00; and

WHEREAS, a cost overrun of \$4,698.00 is attributed to change orders that provided for additional labor and materials required for project ADA compliance; and

WHEREAS, the contract has now been completed in substantial conformance with the plans and specifications approved by the City Council and as modified during construction.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lodi does hereby accept the improvements under the Henning Substation Driveway and Parking Lot Expansion Project; and

BE IT FURTHER RESOLVED that the Electric Utility Director is hereby authorized and directed to file a Notice of Completion with the County Recorder's office; and

Dated: July 5, 2006

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I hereby certify that Resolution No. 2006-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held July 5, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

JENNIFER M. PERRIN
Interim City Clerk

2006-_____



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Accepting Improvements in Vintage Oaks, Tract No. 3482
(East Side of Lower Sacramento Road, South of DeBenedetti Park)

MEETING DATE: July 5, 2006

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the City Council adopt a resolution accepting the development improvements for Vintage Oaks, Tract No. 3482.

BACKGROUND INFORMATION: Improvements at Vintage Oaks, Tract No. 3482, have been completed in substantial conformance with the requirements of the improvement agreement between the City of Lodi and Vintage Oaks, L.P., as approved by the City Council on September 21, 2005, and as shown on Drawings No. 05D006-01 through 05D006-12.

The subdivision is located east of Lower Sacramento Road, south of DeBenedetti Park and west of the Ellerth E. Larson Elementary School site. The development consists of 15 single-family residential lots.

Project improvements included the installation of utilities and full street frontage improvements (including, but not limited to, curb, gutter, sidewalk, masonry wall, street lights, landscaping and irrigation, street pavement and utility improvements) in Lower Sacramento Road along the project boundary, as well as installation of street frontage improvements (curb, gutter, sidewalk and street pavement) for the adjacent parcels to the north (APN 058-230-05) and south (APN 058-230-04). A portion of the required Lower Sacramento Road street frontage improvements, including curb, gutter, sidewalk, curb returns at Vintage Oaks Court, handicap ramps, residential driveway and street pavement along the project boundary, as well as the adjacent parcels to the north and south were installed by the City in conjunction with the City's Lower Sacramento Road Widening (Harney Lane to Kettleman Lane) project. Utility improvements to serve the subdivision, including a 30-inch storm drain line with a 12-inch storm drain line stubbed to Vintage Oaks Court and a 10-inch water tap with a 10-inch water main stubbed to Vintage Oaks Court, were also installed with the City's project. In conformance with Lodi Municipal Code 16.40, the City is eligible for reimbursement for the cost of those facilities that are the developer's responsibility under the conditions of approval for the developer's project. Reimbursement to City by the developer for the cost of Lower Sacramento Road improvements for the developer's project has been made in the amount of \$50,279.75.

At its September 21, 2005, meeting, Council approved the appropriation of funds to reimburse the developer for oversizing costs associated with the Master Plan water main. Council also approved the appropriation of funds to reimburse the developer for the installation of a new wastewater service. The final reimbursement costs for the water system improvements are \$4,615.60 and \$1,210.00 for the wastewater service installation.

The landscape and irrigation improvements installed by this project along Lower Sacramento Road frontage and half of the median improvements installed by the City are public and will be maintained by

APPROVED: _____
Blair King, City Manager

Adopt Resolution Accepting Improvements in Vintage Oaks, Tract No 3482 (East Side of Lower Sacramento Road, South of DeBenedetti Park)

July 5, 2006

Page 2

the City but funded by the Lodi Consolidated Landscape Maintenance Assessment District 2003-1. As a condition of acceptance of these improvements by the City Council, the developer will maintain this landscaping until January 1, 2007. The landscape contractor for Lower Sacramento Road will maintain the median landscaping improvements until May 17, 2007.

The streets to be accepted are as follows:

Streets	Length in Miles
Vintage Oaks Court	0.11
Lower Sacramento Road*	0.00
Total New Miles of City Streets	0.11

* The street dedication for Lower Sacramento Road widens an existing street. This street dedication did not add additional miles to the City's street system.

FISCAL IMPACT: There will be a slight increase in long-term maintenance costs for public infrastructure, such as streets, water, wastewater and storm drain facilities, and City services, such as police and fire. The maintenance and replacement costs for the masonry wall, landscaping and irrigation, and street trees, as well as expected increases in park maintenance costs, will be funded through the Lodi Consolidated Landscape Maintenance Assessment District 2003-1. The estimated annual cost of landscape maintenance is \$5,900.

Per Item 20, "Repair or Reconstruction of Defective Work", of the improvement agreement, the developer's warranty period will begin on the date of Council acceptance.

FUNDING AVAILABLE:	IMF – Water Facilities	(182450; MWSI023)	\$ 4,615.60
	IMF – Sewer Facilities	(173110.1836.1850)	\$ 1,210.00

Ruby Paiste, Interim Finance Director

Richard C. Prima, Jr.
Public Works Director

Prepared by Wesley K. Fujitani, Senior Civil Engineer

RCP/WKF/pmf

cc: City Attorney
Senior Civil Engineer - Development Services
Senior Traffic Engineer
Street Superintendent (w/attachment)
Senior Engineering Technician
Building Official

RESOLUTION NO. 2006-_____

A RESOLUTION OF THE LODI CITY COUNCIL
ACCEPTING THE DEVELOPMENT IMPROVEMENTS
INCLUDED IN THE IMPROVEMENT AGREEMENT FOR
VINTAGE OAKS, TRACT NO. 3482

=====

WHEREAS, Vintage Oaks Subdivision is located east of Lower Sacramento Road, south of DeBenedetti Park and west of the Ellerth E. Larson Elementary School site; and

WHEREAS, the development consists of 15 single-family residential lots; and

WHEREAS, the project included the installation of utilities and full street frontage improvements including, but not limited to curb, gutter, sidewalk, masonry wall, street light, landscaping and irrigation, street pavement and utility improvements) in Lower Sacramento Road along the project boundary, as well as the installation of street frontage improvements (curb, gutter, sidewalk and street pavement) for the adjacent parcels to the north (APN 058-230-05) and south (APN 058-230-04); and

WHEREAS, in conformance with Lodi Municipal Code 16.40, the City is eligible for reimbursement for the cost of those facilities that are the developers responsibility under the conditions of approval for the developer's project, and payment to the City in the amount of \$50,279.75 has been received; and

WHEREAS, the landscape and irrigation improvements installed by this project along Lower Sacramento Road frontage and half of the median improvements installed by the City are public and will be maintained by the City but funded by the Lodi Consolidated Landscape Maintenance Assessment District 2003-1; and

WHEREAS, as a condition of acceptance of these improvements by the City Council, the developer will maintain this landscaping until January 1, 2007, and the Lower Sacramento Road landscape contractor will maintain the median landscaping improvements until May 17, 2007.

NOW, THEREFORE, the City Council of the City of Lodi finds as follows:

1. That all requirements of the Improvement Agreement between the City of Lodi and Vintage Oaks, L.P. for the improvements of Vintage Oaks, Tract No. 3482, have now been substantially complied with; and
2. That as a condition of acceptance of these improvements by the City Council, the developer will maintain this landscaping until January 1, 2007, and the Lower Sacramento Road landscape contractor will maintain the median landscaping improvements until May 17, 2007.

3. The streets to be accepted are as follows:

Streets	Length in Miles
Vintage Oaks Court	0.11
Lower Sacramento Road	0.00
Total New Miles of City Streets	0.11

Dated: July 5, 2006

=====

I hereby certify that Resolution No. 2006-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held July 5, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

JENNIFER M. PERRIN
Interim City Clerk

2006-_____



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt resolution authorizing fee adjustments for various Animal Shelter Services and Approve a Shelter Spay/Neuter Voucher Program

MEETING DATE: July 5, 2006

PREPARED BY: Jerry J. Adams, Chief of Police

RECOMMENDED ACTION: That the Lodi City Council adopt a resolution approving changes and adjustments to fees as presented in the attached staff report and to authorize the implementation of a Spay/Neuter Voucher Program.

BACKGROUND INFORMATION: The current fee structure of the Lodi Police Department Animal Services has been in place since 2003. Periodic review and analysis of fees is necessary in order to ensure fees are consistent with other agencies performing similar services.

Additionally, cost recovery fees should be consistent with the cost of providing the service. With continuing budgetary constraints, as well as increased overhead costs, it is recommended that Council adjust fees as outlined in the attached staff report.

The Shelter impounds three times the amount of unaltered vs. altered animals. A low cost spay/neuter voucher program for low income residents will help address the pet population problem in the City of Lodi to reduce the birth rate of unwanted puppies and kittens, ultimately decreasing the euthanasia rate. Animal Service Officers will oversee the spay/neuter voucher program which will target large dogs, pit bulls/ pit bull mixes, and cats. Vouchers will be issued to Lodi residents based on income (under \$35,000 a year) and special circumstances. Vouchers will be offered at a cost of \$10 for cats and \$20 for large dogs to qualified residents. The City Animal Shelter Voucher Program will provide spay/neuter opportunities for pet owners without duplicating programs already offered by PALS (for seniors) and Lodi Cat Connection (feral cats).

The additional cost for the spay/neuter of animals will be paid from the General Fund Account 100.2302 (Animal Pound Deposits). This account is mandated for uses in supporting spay/neuter programs in the City of Lodi. There is approximately \$10,000 in this account; staff recommends that, initially, \$5,000 be designated for the voucher program, and as additional funds are collected from fines and fees these funds be used to continue support of the voucher program.

APPROVED: _____
Blair King, City Manager

Adopt resolution authorizing fee adjustments for various Animal Shelter Services
and Approve a Shelter Spay/Neuter Voucher Program
July 5, 2006
Page Two

FISCAL IMPACT: No additional operational costs are anticipated. Staff estimates a minimum of \$30,000 in additional revenue to the City of Lodi based on the adjustments and changes to fees. Revenue is expected to increase as more animals in the community are identified as pets and are properly licensed.

FUNDING AVAILABLE: The spay/neuter voucher program funds will be taken from the General Fund Account 100. 2302. This account receives funding from fines and fees relating to unaltered animals and is mandated by law to be used for spay/neuter programs. The voucher program will continue as funds become available in this account.

Jerry J. Adams
Chief of Police

cc: City Attorney

Animal Shelter Fee Proposal

	<u>Current</u>	<u>Proposed</u>	<u>Explanation</u>
Licensing			
Unaltered dogs/cats	\$ 20.00	\$ 50.00	The Shelter impounds 3 times the amount of unaltered vs. altered animals. The in license fees for unaltered animals will discourage irresponsible breeding and encourage spay/neutering of animals.
Altered dogs/cats	\$ 6.00	\$10.00	Increase pet licensing fees to cover cost of processing and tracking information. This fee is in line with other local agencies.
Unlicensed Animals	\$ 20.00	\$ 50.00	Encourage City of Lodi animal owners to license pets. This fee would be imposed when staff issues a notice to comply for an unlicensed animal.
Expired License	20% (per mo)	\$50.00	Encourage animal owners to renew pet licenses on time.
<u>Supplemental Information on Pet Licensing</u> - City of Lodi licensed pets for fiscal year 2004-2005 total is 2,553. The National Average shows 36.1% of households have dogs and 31/6% has cats. Based on the National Average it is estimated that there are over 40,000 pets in the City of Lodi with only 15.6% of the pets licensed.			
Boarding			
Dogs- per day	\$ 8.00	\$ 10.00	Cover cost of cleaning, feeding and medical services for animals housed in the shelter
Cats-per day	\$ 6.00	\$ 10.00	
Disposal Fee			
Dog & Cats	\$ 25.00	\$ 50.00	Cost of impound fees for animals that are released by the owner for adoption or disposal.
Impound/Field Call Fee			
Dogs & Cats	\$30.00	\$ 50.00	Fee charged when staff responds to a field call to pick up a loose dog or cat in a trap Staff repeatedly impounds the same animals running loose. This would help recover costs related to this service and encourage responsible pet ownership.
2 nd call	\$60.00	\$100.00	
3 rd call	\$120.00	\$200.00	
4 th call	\$240.00	\$400.00	
Spay/Neuter Deposits			
Dogs-	\$ 50.00	\$ 75.00	Dollar figure allowed Per Food and Agricultural code 30503(b)
Cats-	\$ 40.00	\$ 75.00	Dollar figure allowed Per Food and Agricultural code 31751.3

Comparisons of Animal Shelter Fees

	Lodi Current	SJ County	Sac County	Tracy	Stanislaus Co.	Lodi Proposed
Licensing-Unaltered	\$ 20.00	\$ 12.00	\$ 30.00	\$12.00	\$ 100.00	\$ 50.00
Licensing-Altered	\$ 6.00	\$ 6.00	\$ 10.00	\$ 4.00	\$ 12.00	\$ 10.00
Boarding-Dogs/ per day	\$ 8.00	\$ 4.50	\$ 8.00	\$ 3.00	\$ 8.00	\$ 10.00
Boarding-Cats/ per day	\$ 6.00	\$ 3.50	\$ 8.00	\$ 3.00	\$ 8.00	\$ 10.00
Disposal Fee	\$ 25.00	\$ 45.00	\$ 40.00	\$ 20.00	\$ 45.00	\$ 50.00
Field Call	\$ 25.00	\$ 45.00	\$ 40.00	\$ 20.00	\$ 45.00	\$ 50.00
Spay/Neuter Deposit Dogs	\$ 50.00	\$ 40.00	Surgery Fee	Surgery fee	Surgery Fee	\$ 75.00
Spay/Neuter Deposit Cats	\$ 40.00	\$ 30.00	Surgery Fee	Surgery Fee	Surgery Fee	\$ 75.00

Fee Increase Projections for Fiscal Year 2006-2007

(Based On Fiscal Year 2004-2005 Information)

		Proposed Increase of:	Projected Revenue Increase:
Licensing			
Dogs			
Unaltered	428	\$ 30.00 per	\$ 12,840.00
Altered	1,640	\$ 4.00 per	\$ 6,560.00
Cats			
Unaltered	5	\$ 30.00 per	\$ 150.00
Altered	480	\$ 4.00 per	\$ 1,920.00
Unlicensed Fee	Not Available	\$ 30.00	\$ Unknown
Boarding			
Dogs Redeemed	335	\$ 2.00 per day	\$ 1,340.00 (based on # days held)
Cats Redeemed	39	\$ 4.00 per day	\$ 468.00 (based on # days held)
Disposal Fee	220	\$ 25.00	\$ 5,500.00
Field Call Fee	None	\$ 50.00	\$ 1,300.00 (based on field calls for 2005)
			=====
Total Projected Revenue Increase			\$ 30,078.00

RESOLUTION NO. 2006-_____

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING FEE
INCREASES FOR VARIOUS ANIMAL SHELTER SERVICES, AND
FURTHER APPROVE A SHELTER SPAY/NEUTER VOUCHER PROGRAM

=====

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LODI AS
FOLLOWS:

SECTION 1. WHEREAS, the Lodi Municipal Code requires the City Council, by Resolution, to set fees for various services provided by the City of Lodi to recover those costs associated with providing specific services and programs; and

WHEREAS, staff recommends increasing fees for various Animal Shelter services as shown on the attached schedule marked Exhibit A; and

WHEREAS, staff further recommends the implementation of a Spay/Neuter Voucher Program for low-income residents which will help address the pet population, reducing the birth rate of puppies and kittens and ultimately decreasing the euthanasia rate of unwanted animals.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lodi does hereby implement the fee schedules as shown on Exhibit A attached hereto and made a part of this Resolution.

SECTION 2. All resolutions or parts of resolutions in conflict herewith are repealed insofar as such conflict may exist.

SECTION 3. This resolution shall be published one time in the "Lodi News-Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall be in force and take effect July 5, 2006, or as soon thereafter as administratively possible.

Dated: July 5, 2006

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I hereby certify that Resolution No. 2006-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held July 5, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

JENNIFER M. PERRIN
City Clerk

2006-_____

EXHIBIT A

Proposed Animal Shelter Fees July, 2006

Licensing-Unaltered	\$ 50.00
Licensing-Altered	\$ 10.00
Boarding-Dogs/ per day	\$ 10.00
Boarding-Cats/ per day	\$ 10.00
Disposal Fee	\$ 50.00
Field Call	\$ 50.00
Spay/Neuter Deposit Dogs	\$ 75.00
Spay/Neuter Deposit Cats	\$ 75.00



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Authorize the City Manager to execute a Settlement Agreement in the matter of *Michels Corporation d/b/a Michels Pipeline (Gelco Services . . .) v. Crutchfield Construction Company, et al.*, San Joaquin County Superior Court Case No. CV 028006, regarding the City's Water and Wastewater Main Replacement Program, Project No. 2.

MEETING DATE: July 5, 2006

PREPARED BY: Janice D. Magdich, Deputy City Attorney

RECOMMENDED ACTION: Authorize the City Manager to execute a Settlement Agreement in the matter of *Michels Corporation d/b/a Michels Pipeline (Gelco Services . . .) v. Crutchfield Construction Company, et al.*, San Joaquin County Superior Court Case No. CV 028006, regarding the City's Water and Wastewater Main Replacement Program, Project No. 2.

BACKGROUND INFORMATION: Michels Corporation d/b/a Michels Pipeline (Gelco Services . . .) brought an action in San Joaquin County Superior Court (the Action) against Crutchfield Construction Company, its bonding companies and the City based on a Stop Notice filed by Michels (a sub-contractor of Crutchfield) concerning the City's Water and Wastewater Main Replacement Program, Project No. 2 (the Project).

A settlement of the Action has been reached by the parties in which Michels will be paid under the Project payment bonds in consideration for the dismissal with prejudice of the pending Action. Under the terms of the settlement, City will pay the balance owing under the Project contract to Fidelity and Guaranty Insurance Company (FGIC) (Crutchfield's bonding company), based in part on securing releases for all but one Project stop notice. As to the remaining Project stop notice, all but the sum of \$1,164.59 has been paid by FGIC to A. Teichert & Sons. A dispute exists between FGIC and A. Teichert & Sons as to the remaining balance. In consideration for City's payment of the contract balance to FGIC, FGIC, under the terms of the Settlement Agreement, shall defend and indemnify the City from and against any claims, demands, suits, or damages arising out of such payment. This office is of the opinion that a suit by Teichert for additional payment under its stop notice is unlikely.

Execution of the Settlement Agreement, a copy of which is attached, will resolve the pending Action.

FUNDING: None, over and above the balance owing under the previously approved Project contract.

Janice D. Magdich
Deputy City Attorney

Attachment – Proposed Settlement Agreement

City/CounCom/Misc/CrutchfieldMichaelsSettlement.doc

APPROVED: _____
Blair King, City Manager

SETTLEMENT AGREEMENT

1. **DATE OF AGREEMENT:** The effective date of this agreement ("Agreement") is May 3, 2006.

2. **PARTIES TO AGREEMENT:** This Agreement is made by and between the following parties (collectively, the "Parties"):

A. **MICHELS CORPORATION, [d/b/a MICHELS PIPELINE CONSTRUCTION (Gelco Services, a Division of ...)] ("MICHELS")
Plaintiff in the Action**

Michels Corporation
Michels Pipeline Construction
817 W. Main Street
Brownsville, WI. 53006

With a copy to MICHELS' attorneys:

Pamela A. Lewis, Esq.
Cook Brown, LLP
555 Capitol Mall, Suite 425
Sacramento, California 95814

A. David Stegeman
Chief Legal Officer
Michels Corporation
817 Brownsville, WI. 53006

B. **CRUTCHFIELD CONSTRUCTION COMPANY ("CRUTCHFIELD")
Defendant in the Action**

Harold Crutchfield
Crutchfield Construction Company
2655 E. Miner
Stockton, California 95205

With a copy to CRUTCHFIELD's attorney:

Michael E. Babitzke, Esq.
6 South El Dorado Street, Suite 305
Stockton, California 95202

C. **FIDELITY AND GUARANTY INSURANCE COMPANY ("FGIC") and
THE UNITED STATES FIDELITY AND GUARANTY COMPANY
("USFGC") Defendants in the Action**

Pete Fjellstad and Sherri Cooper
St. Paul Travelers Bond
31919 First Avenue South, Suite 100
Federal Way, Washington 98003

with copy to FGIC's and USFGC's attorney:

Jonathan J. Dunn, Esq.
Michael E. Fox, Esq.
Sedgwick, Detert, Moran & Arnold LLP
3 Park Plaza, 17th Floor
Irvine, California 92614

D. **CITY OF LODI**
Defendant in the Action
Janice D. Magdich
Deputy City Attorney
City of Lodi
333 E. Pine Street
Lodi, California 95240

3. **PURPOSE OF AGREEMENT:** The purpose of this Agreement is to record the terms of the Parties' agreement to settle MICHELS' claims against CRUTCHFIELD, LODI, FGIC, and USFGC set forth in the complaint filed in the Superior Court of the State of California, County of San Joaquin, Case No. CV028006 (the "Action"). Attached herewith as **Exhibit "1,"** and incorporated herein by this reference, is a true and correct copy of MICHELS' complaint.

4. **ACKNOWLEDGMENTS:** The Parties acknowledge that none of the Parties have been induced to execute this Agreement by any representations, agreements, or understandings not expressly contained in this Agreement. For example, but without limitation, each of the Parties acknowledge and affirm that no inconsistent or conflicting understanding, agreement, or representation has been made by, or on behalf of, any of the other Parties with respect to the following: (a) the Agreement's payment provisions; (b) further accommodations for any of the Parties; (c) any modifications or alterations to this Agreement; or (d) this Agreement's enforceability, terms, and/or conditions. Furthermore, the Parties hereby acknowledge and affirm that the recitals herein are contractual and not merely recital.

RECITALS

1. CITY OF LODI and CRUTCHFIELD entered into a written agreement (the "Prime Contract") for a public work of improvement known as "City of Lodi's Water and Wastewater Main Replacement Program, Project No. 2" (the "Project").

2. CRUTCHFIELD signed a General Agreement of Indemnity ("Indemnity Agreement") as a partial inducement for FGIC to issue construction bonds on CRUTCHFIELD's behalf.

3. FGIC issued a payment bond ("Payment Bond") on behalf of its principal, CRUTCHFIELD, related to the Project.

Settlement Agreement

4. Pursuant to the Indemnity Agreement, CRUTCHFIELD assigned FGIC all of its rights, titles, and interests to all monies on FGIC bonded projects, including, but not limited to, the Project.

5. MICHELS' alleges that MICHELS is, and at all relevant times was, a corporation (a) duly organized and existing under and by virtue of the laws of the State of Wisconsin, (b) authorized to do business in the State of California, and (c) properly licensed as a construction contractor in the State of California.

6. MICHELS' further alleges that on or about August 24, 2004, it entered into a written subcontract agreement ("Subcontract") with CRUTCHFIELD to perform construction services at the Project.

7. MICHELS' further alleges that MICHELS assumed and obtained all rights to the Gelco Services, Inc.'s May 12, 2004 proposal and any subsequent subcontract relationship with CRUTCHFIELD related to the Project when MICHELS purchased the assets of Gelco Services, Inc. in July 2004 at which time the Gelco Services assets purchased became owned and operated by MICHELS.

8. MICHELS' further alleges that MICHELS furnished labor, services, equipment and/or materials related to the installation of pipe and sewer laterals at the Project, *inter alia*.

9. MICHELS' further alleges that CRUTCHFIELD agreed to pay MICHELS for its work at the Project.

10. MICHELS' further alleges that CRUTCHFIELD issued various change/extra work orders to MICHELS and MICHELS performed same.

11. MICHELS' further alleges that MICHELS has performed all conditions, covenants and promises under the Subcontract

12. MICHELS' further alleges that the reasonable value of all labor, services equipment and/or materials, including all alleged change/extra work orders, that MICHELS provided to the Project is \$433,678.13.

13. MICHELS' further alleges that MICHELS was paid \$123,388.67 by CRUTCHFIELD and no more related to MICHELS' work and materials supplied to the Project.

14. MICHELS' further alleges that CRUTCHFIELD breached the Subcontract by failing to make payment due to it for work performed and materials supplied by MICHELS to the Project.

15. MICHELS' further alleges that MICHELS has been damaged in the principal sum of \$310,289.46, plus interest, statutory prompt payment penalties, attorney fees, and costs.

16. MICHELS' further alleges that MICHELS properly served a stop notice ("Stop Notice"), totaling \$238,252.01, and complied with all statutory and procedural requirements related to stop notices.

Settlement Agreement

17. MICHELS' further alleges that FGIC issued the Payment Bond to provide for the payment of MICHELS' claims against the payment bond for materials and labor supplied to the Project by MICHELS and for such statutory prompt payment penalties, interest, attorney's fees and costs as the payment bond surety may be obligated to pay pursuant to law and that MICHELS complied with all statutory requirements for recovery under said payment bond.

18. MICHELS further alleges that USFGC issued a contractor license bond ("License Bond"), subjecting USFGC to liability for CRUTCHFIELD's alleged violations of various provisions of California Business and Professions Code §7000 et. seq., and that USFGC is liable for CRUTCHFIELD's alleged violations of same.

19. Defendants CRUTCHFIELD, FGIC and USFGC filed an answer denying Plaintiff MICHELS' claims as stated in the Action.

20. FGIC made the following payments, totaling \$75,951.62, to the following CRUTCHFIELD subcontractors and suppliers on the Project: (a) \$58,355.47 to Edward S. Walsh Co.; (b) \$6,277.50 to Johnson Concrete Sawing; (c) \$7,009.21 to Teichert Aggregates; (d) \$4,309.44 to Trench Plate Rental Co. In exchange for said payments, FGIC received unconditional waivers and releases from Edward S. Walsh Co. and Trench Plate Rental Co. FGIC also received a conditional waiver from Johnson Concrete Sawing & Demo, Inc., totaling \$6,277.50. FGIC did not receive any waiver and/or release from Teichert Aggregates. Attached herewith as **Exhibit "2,"** and incorporated herein by this reference, are true and correct copies of the previously mentioned checks, waivers, and releases.

21. Due to the uncertainty and expense of litigation, the parties desire to settle, compromise, resolve, the claims except as noted herein below.

NOW THEREFORE, in consideration of the mutual promises provided herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

A. **PAYMENT TO MICHELS:** FGIC or USFGC shall pay MICHELS Three Hundred Forty-Eight Thousand Dollars (\$348,000.00) ("Settlement Payment") on or before May 25, 2006, or the date of this Agreement, whichever is sooner. Counsel for Michels shall hold such payment in trust pending all parties' signature of this Agreement.

B. **PAYMENT TO FGIC:** The CITY OF LODI represents, and FGIC relies thereon, that as of the date of this Agreement: (a) the amount of the Prime Contract, including all approved change orders, is the sum of \$2,260,983.71; (b) the CITY OF LODI has previously paid CRUTCHFIELD the amount of \$1,870,686.70; (c) the CITY OF LODI is holding as retainage on account of stop notices the sum of \$391,528.18; and (d) the CITY OF LODI is holding the sum of \$19,450.83 as Progress Payment No. 11, pursuant to the terms of the Prime Contract and applicable law. Thus, the "Contract Balance" is \$410,979.01 (amount of Prime Contract including change orders, less amounts previously paid), which should equal all amounts withheld. The CITY OF LODI shall pay to FGIC the Contract Balance within thirty days from the date of this Agreement. CRUTCHFIELD hereby consents to the CITY OF LODI's payment of all Contract Balance to FGIC.

C. **FGIC'S AGREEMENT TO DEFEND AND INDEMNIFY:** In exchange for the CITY OF LODI's payment of all Contract Balance to FGIC, FGIC shall defend and indemnify the CITY OF LODI from and against any claims, demands, suits, or damages arising out of the CITY OF LODI's payment to FGIC by stop notice claimants Johnson Concrete Sawing and A. Teichert & Sons. The CITY OF LODI hereby consents to joint representation in the event defense of such claims is needed, and will reasonably waive any conflicts of interest requested from joint counsel of FGIC's selection related to such defense.

D. **DISMISSAL OF ACTION WITH PREJUDICE:** Within five (5) days of the successful negotiation of the Settlement Payment, MICHELS shall file a dismissal with prejudice of the entire Action and supply endorsed copies of said document to counsel for each party.

E. **AUTHORITY:** Each of the Parties represents that it is authorized to consent to, to execute, and to perform this Agreement.

F. **NO ASSIGNMENTS:** Each of the Parties represents that it is the sole and lawful owner of all rights, title, and interest in, and to, all rights and claims released or assigned by this Agreement, and that it has not assigned, or transferred, any rights, title, and/or interest to any other person or entity. Further, each of the Parties to this Agreement represents that its obligations under this Agreement do not violate any agreement with any third party to which it is bound.

G. **RELEASES:**

1. **MICHELS' RELEASE:** Immediately upon successful negotiation of the check for the settlement payment described above, MICHELS and its heirs, legal successors, assigns, subsidiaries, divisions or affiliates, grantees, agents, and/or representatives, with the exceptions noted in K, below, does hereby release and discharge the CITY OF LODI, CRUTCHFIELD, FGIC, and USFGC, including any and all of their respective agents, servants, subsidiaries, divisions, or affiliates, employees, attorneys, representatives, predecessors, successors, assigns and assignors from any and all claims, demands, actions, causes of action, obligations, costs, expenses, attorneys' fees, expert witness or consultant fees, damages, penalties, interest, losses and liabilities of whatsoever kind, nature or character, known or unknown, suspected or unsuspected, matured or contingent, which in any way concern or relate to the Subcontract or work and materials supplied thereunder, the Payment Bond, the License Bond, the Stop Notice, and the Action.

2. **CRUTCHFIELD'S RELEASE:** With the exceptions noted in K, below, CRUTCHFIELD, and its heirs, legal successors, assigns, subsidiaries, divisions or affiliates, grantees, agents, insurers, sureties and/or representatives, does hereby release and discharge MICHELS including any and all of its respective agents, servants, subsidiaries, divisions, or affiliates, employees, attorneys, representatives, predecessors, successors, assigns and assignors from any and all claims, demands, actions, causes of action, obligations, costs, expenses, attorneys' fees, expert witness or consultant fees, damages, penalties, interest, losses and liabilities of whatsoever kind, nature or character, known or unknown, suspected or unsuspected, matured or contingent, which in any way concern or relate to the Subcontract or work and

Settlement Agreement

materials supplied thereunder, the Payment Bond, the License Bond, the Stop Notice, and the Action.

H. **CIVIL CODE §3262 RELEASES AND STOP NOTICE:** Immediately upon receipt of the payment described above, MICHELS will execute and deliver to FGIC and USFGC's counsel, a "Conditional Waiver and Release Upon Payment" and shall execute and deliver a California *Civil Code* §3262 "Unconditional Release Upon Final Payment" related to the amount of the settlement payment upon successful negotiation of the settlement payment.

I. **ASSIGNMENT OF STOP NOTICES:** MICHELS assigns all rights in its Stop Notice to FGIC and USFGC. MICHELS shall provide the CITY OF LODI with an executed "Conditional Waiver and Release" regarding the Stop Notice, and/or an Unconditional Waiver and Release "on condition that any unconditional release be held in trust by the CITY OF LODI and is not effective until and unless MICHELS receives and successfully negotiates the settlement payment from FGIC and USFGC. FGIC and USFGC will only pursue assigned rights in their own names.

J. **CIVIL CODE §1542:** MICHELS, CRUTCHFIELD, FGIC AND USFGC acknowledge that they are familiar with California Civil Code §1542, which provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him, must have materially affected his settlement with the debtor.

MICHELS, CRUTCHFIELD, FGIC AND USFGC waive, release, and otherwise relinquish any and all rights and benefits which they may have thereunder, or which may be conferred upon them by the provisions of §1542, against each other, other than those limitations on releases and/or reserved claims noted in K, herein below.

K. **LIMITATIONS ON RELEASES/RESERVED CLAIMS:** The Parties do not intend, and this Agreement should not be construed, to release, discharge, or extinguish any obligations arising by statute, contract, equity, or otherwise which CRUTCHFIELD may owe to FGIC, USFGC, and/or their related companies, or the CITY OF LODI. Any and all such obligations are reserved by this Agreement. Additionally, the Parties do not intend, and this Agreement should not be construed, to release, discharge, or extinguish any rights arising from statute, contract, equity, or otherwise which FGIC, USFGC, and/or their related companies, or the CITY OF LODI, have against CRUTCHFIELD. Any and all such rights are reserved and affirmed by this Agreement. Finally, no party releases any claims related to claims for or arising out of any latent deficiencies in the work performed or materials supplied to the Project or claims related to any third party claims for property damage or personal injury but acknowledge and represent that they presently are unaware of any such claims.

L. **CONDITIONAL COVENANTS:** Each Parties' obligations, covenants, and promises under this Agreement are expressly conditioned upon the performance of the other Parties' obligations, covenants, and promises.

Settlement Agreement

M. **BINDING AGREEMENT:** This Agreement shall be binding upon, and shall inure to, the Parties and their heirs, executors, administrators, representatives, successors, assigns, agents, servants, employees, attorneys, and predecessors.

N. **CONTINUED JURISDICTION:** The Parties agree to request that the court retain jurisdiction over them to enforce the settlement until performance in full of the settlement terms pursuant to Cal. Code of Civ. Pro. Section 664.6.

O. **GOVERNING LAW:** This Agreement shall be interpreted, construed, and enforced in accordance with, and governed by, the provisions and laws of the State of California.

P. **PREVAILING PARTY ENTITLED TO ATTORNEY'S FEES:** The prevailing party or parties in any dispute relating to the interpretation or enforcement of this Agreement shall be entitled to reasonable attorney's fees from the other party or parties.

Q. **FAIR AND REASONABLE TERMS:** The Parties acknowledge that this Agreement is fair and reasonable, and they represent that they consulted with legal counsel before executing this Agreement.

R. **NO THIRD PARTY BENEFICIARIES:** The Parties do not intend to create any third party beneficiaries to this Agreement. Accordingly, neither this Agreement nor any course of conduct by any of the Parties should be construed to establish rights in any person or entity not a Party to this Agreement.

S. **COUNTERPARTS:** This Agreement may be executed in counterparts.

T. **ATTORNEY FEES RELATED TO ACTION:** Except as otherwise limited by this paragraph, each of the Parties shall bear its own attorney's fees and costs in connection with the Action. FGIC and USFGC do not waive their respective rights to recover attorney fees and costs from CRUTCHFIELD.

U. **FACSIMILE SIGNATURE:** The Parties agree that facsimile copies of signatures to this Agreement shall be treated as original signatures, binding each of the Parties to their respective rights and obligations under this Agreement to the same extent as if such facsimile signatures were original signatures.

V. **NOTICE:** Any notice required to be sent hereunder shall be sent to the respective Parties at the addresses listed above.

W. **SEVERABILITY:** In the event that one or more provisions of this Agreement shall be declared to be invalid, illegal, or unenforceable in any respect, unless such invalidity, illegality, or unenforceability shall be tantamount to a failure of consideration, the validity, legality, and enforceability of the remaining provisions contained in this Agreement shall not in any way be affected or impaired thereby.

Settlement Agreement

X. **ENTIRE AGREEMENT:** This Agreement represents the whole and complete agreement by and between the Parties and shall not be changed, modified, or abridged, except by a subsequent written agreement executed by the Parties. The parties agree that this document consists of negotiated language and that therefore any legal rules or provisions that provide that ambiguities are to be construed against the drafter, are not to be enforced.

IN WITNESS WHEREOF, the Parties execute this Settlement Agreement as of the date last written below.

DATED: May ____, 2006

**MICHELS CORPORATION, d/b/a MICHELS
PIPELINE CONSTRUCTION (Gelco Services a
Division of ...)**

By: _____

DATED: May ____, 2006

**CRUTCHFIELD CONSTRUCTION
COMPANY**

By: _____

DATED: May ____, 2006

**FIDELITY AND GUARANTY INSURANCE
COMPANY**

By: _____

DATED: May ____, 2006

**THE UNITED STATES FIDELITY AND
GUARANTY COMPANY**

By: _____

DATED: May ____, 2006

CITY OF LODI, a Municipal corporation

By: _____
Blair King, City Manager

Comments by the public on non-agenda items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted.

Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

Comments by the City Council Members on non-agenda items



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Public hearing to consider adopting a resolution establishing low-income discounts for water and sewer services and adopting a resolution to place the measure on the ballot for the November 7, 2006, General Municipal Election

MEETING DATE: July 5, 2006

PREPARED BY: City Attorney

RECOMMENDED ACTION: That the City Council hold public hearing to consider adopting a Resolution establishing low-income discounts for water and sewer services, and further adopting a Resolution to place the measure on the ballot for the November 7, 2006 General Municipal Election.

BACKGROUND INFORMATION: A question has arisen about whether the City of Lodi's low income discount program (known as SHARE - Ordinance 1750 introduced August 4, 2004), Senior Fixed Income Discount Program (also Ordinance 1750), the establishment of low-income water, sewer and refuse services (Resolution 2004-158 adopted August 4, 2004, and the Lodi Customer Assistance & Relief Energy (CARE) package program (Resolution 2004-159 adopted August 4, 2004), which is designed to assist low-income families with their city utility bill, can be funded by the rate structure under proposition 218. This question only applies to the water and wastewater programs because the electric utility is specifically exempted from Proposition 218, and the refuse utility is privately owned and exempt from Proposition 218. Proposition 218 provides that: "The amount of a fee or charge imposed upon any parcel or person as an incident of property ownership shall not exceed the proportional cost of the service attributable to the parcel." However, I do not believe this language prevents low-income discounts from being funded through the rate structure. First, low-income discounts are ubiquitous in the utility industry: Publicly regulated but privately owned utilities such as electric, gas and phone provide them across the country. Moreover, they provide a bad debt management tool that allows the collection of a portion of a bill that may otherwise never be collected in exchange for a reduced rate, a direct benefit to ratepayers at large. These programs also reduce the cost of bill collection and demands on staff time for collection issues.

Unfortunately, to date, no court has squarely addressed the issue and I must admit that some City Attorneys do not share my confidence in the above analysis. Accordingly, Council directed staff to prepare the discount programs for citizen approval. Since the programs, if subject to Proposition 218, would be special taxes, they require a 2/3 majority vote.

APPROVED: _____

Blair King, City Manager

The funding budgeted in FY 2006/2007 for the programs is as follows:

	<u>SHARE/Sr./Fixed Income</u>	<u>% of Rate Revenue</u>
Water	\$ 128,300	1.6%
Wastewater	\$ 134,500	1.7%

The discount percentages will be set as follows:

	<u>SHARE</u>	<u>Sr./Fixed Income</u>
Water	20%	10%
Wastewater	20%	10%

Staff recommends that Council set a cap of 2% of revenue on each discount program and that staff monitor the discount programs annually to ensure the limit is not exceeded, with any overages in any one year being recovered from the following years 2% cap. At present revenue levels, this would equal \$164,630 in Wastewater and \$164,734 in Water. The ongoing verification of eligibility will be handled by the Finance Department, generally on an annual basis, depending on the circumstances under which a customer qualifies.

FUNDING: Administration costs would be borne by Water and Wastewater funds and revenue loss would occur in each of the revenue funds.

D. Stephen Schwabauer
City Attorney

A RESOLUTION OF THE LODI CITY COUNCIL
ESTABLISHING LOW-INCOME DISCOUNTS FOR WATER
AND SEWER SERVICES

=====

WHEREAS, with the implementation of new water, sewer, and refuse rates and charges adopted April 27, 2004, the Lodi City Council adopted Ordinance No. 1750 amending Lodi Municipal Code Chapter 13.04, §13.04.130, "Low Income Adjustments," at its September 15, 2004, City Council meeting; and

WHEREAS, the City Council now desires to adopt a resolution establishing Water and Sewer Services discounts for eligible low-income residents, and further desires to place the Measure on the November 2006 ballot for citizen approval.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the Lodi City Council does hereby approve and establish low-income discounts for water and sewer services as shown below, which shall become effective the first billing period following the effective date of this Resolution:

For Residential Customers who qualify for the Electric SHARE Program discount:

Water	20%	Discount on the Residential Flat Rate
Wastewater	20%	Discount on the Residential Flat Rate for Disposal to the Domestic System

OR,

For Residential Customers who qualify for the Electric Senior/Fixed-Income discount:

Water	10%	Discount on the Residential Flat Rate
Wastewater	10%	Discount on the Residential Flat Rate for Disposal to the Domestic System

BE IT FURTHER RESOLVED that the water and wastewater discounts shall be funded by the ratepayers, collected with utility bills; and

BE IT FURTHER RESOLVED that the programs will be limited to two percent (2%) of the revenue of each utility. At current revenue levels this equals \$164,630 per year in wastewater and \$164,234 in the water utility; and

BE IT FURTHER RESOLVED that the City Council does hereby direct staff to institute a verification program whereby every three years 10% of 1/3 of the applicants' eligibility is re-confirmed; and

BE IT FURTHER RESOLVED that this Measure shall be placed on the November 7, 2006 Ballot for citizen approval.

Dated: July 5, 2006

=====

I hereby certify that Resolution No. 2006-_____ was passed and adopted by the City Council of the City of Lodi at its regular meeting held July 5, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

JENNIFER M. PERRIN
City Clerk

2006-_____

RESOLUTION NO. 2006-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LODI,
CALIFORNIA, ORDERING THAT A MEASURE BE SUBMITTED TO THE
VOTERS AT THE GENERAL MUNICIPAL ELECTION TO BE
CONSOLIDATED WITH THE STATEWIDE GENERAL ELECTION ON
NOVEMBER 7, 2006, RELATING TO LOW-INCOME DISCOUNTS FOR
WATER AND SEWER SERVICES

=====

WHEREAS, a General Municipal Election on Tuesday, November 7, 2006, has been called by Resolution No. 2006-96, adopted on May 17, 2006; and

WHEREAS, the City Council requested the Board of Supervisors of the County of San Joaquin to render specified services to the City relating to the conduct of a General Municipal Election to be held on Tuesday, November 7, 2006, by Resolution No. 2006-97, adopted on May 17, 2006; and

WHEREAS, the City Council also desires to submit to the voters of the City of Lodi at the General Municipal Election to be consolidated with the Statewide General Election on November 7, 2006, a question relating to low-income discounts for water and sewer services.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LODI, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. That the City Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election the following question:

Shall the Resolution establishing low-income discounts for water and sewer services be passed?	Yes
	No

SECTION 2. That the proposed complete text of the measure to be submitted to the voters is attached as Exhibit A.

SECTION 3. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 4. That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the county election department of the County of San Joaquin.

SECTION 5. That the City shall reimburse the County for services performed and upon presentation to the City of a properly approved bill.

SECTION 6. That the City Attorney prepare a ballot summary for inclusion in election materials not to exceed 500 words.

SECTION 7. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

Dated: July 5, 2006

=====

I hereby certify that Resolution No. 2006-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held July 5, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

JENNIFER M. PERRIN
Interim City Clerk

2006-____

A RESOLUTION OF THE LODI CITY COUNCIL
ESTABLISHING LOW-INCOME DISCOUNTS FOR WATER
AND SEWER SERVICES

WHEREAS, with the implementation of new water, sewer, and refuse rates and charges adopted April 27, 2004, the Lodi City Council adopted Ordinance No. 1750 amending Lodi Municipal Code Chapter 13.04, §13.04.130, "Low Income Adjustments," at its September 15, 2004, City Council meeting; and

WHEREAS, the City Council now desires to adopt a resolution establishing Water and Sewer Services discounts for eligible low-income residents, and further desires to place the Measure on the November 2006 ballot for citizen approval.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the Lodi City Council does hereby approve and establish low-income discounts for water and sewer services as shown below, which shall become effective the first billing period following the effective date of this Resolution:

For Residential Customers who qualify for the Electric SHARE Program discount:

Water	20%	Discount on the Residential Flat Rate
Wastewater	20%	Discount on the Residential Flat Rate for Disposal to the Domestic System

OR,

For Residential Customers who qualify for the Electric Senior/Fixed-Income discount:

Water	10%	Discount on the Residential Flat Rate
Wastewater	10%	Discount on the Residential Flat Rate for Disposal to the Domestic System

BE IT FURTHER RESOLVED that the water and wastewater discounts shall be funded by the ratepayers, collected with utility bills; and

BE IT FURTHER RESOLVED that the programs will be limited to two percent (2%) of the revenue of each utility. At current revenue levels this equals \$164,630 per year in wastewater and \$164,234 in the water utility; and

BE IT FURTHER RESOLVED that the City Council does hereby direct staff to institute a verification program whereby every three years 10% of 1/3 of the applicants' eligibility is re-confirmed; and

BE IT FURTHER RESOLVED that this Measure shall be placed on the November 7, 2006 Ballot for citizen approval.

Dated: July 5, 2006

I hereby certify that Resolution No. 2006-_____ was passed and adopted by the City Council of the City of Lodi at its regular meeting held July 5, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

JENNIFER M. PERRIN
City Clerk

2006-_____



***Please immediately confirm receipt
of this fax by calling 333-6702***

CITY OF LODI
P. O. BOX 3006
LODI, CALIFORNIA 95241-1910

ADVERTISING INSTRUCTIONS

SUBJECT: NOTICE OF PUBLIC HEARING FOR JULY 5, 2006, FOR THE ADOPTION OF
ORDINANCE ESTABLISHING LOW INCOME DISCOUNTS FOR WASTER
AND WASTEWATER RATEPAYERS

LEGAL AD

PUBLISH DATE: SATURDAY, JUNE 24, 2006 & JULY 1, 2006

TEAR SHEETS WANTED: Three (3) please

SEND AFFIDAVIT AND BILL TO: JENNIFER M. PERRIN, INTERIM CITY CLERK
City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

DATED: THURSDAY, JUNE 22, 2006

ORDERED BY: JENNIFER M. PERRIN
INTERIM CITY CLERK

JENNIFER M. PERRIN, CMC
INTERIM CITY CLERK


DANA R. CHAPMAN
ADMINISTRATIVE CLERK

JACQUELINE L. TAYLOR, CMC
DEPUTY CITY CLERK

Verify Appearance of this Legal in the Newspaper – Copy to File

Faxed to the Sentinel at 369-1084 at 4:00pm (time) on 6/22/06 (date) 3 (pages)
LNS DIANE Phoned to confirm receipt of all pages at 4:30pm (time) JLT ✓ DRC JMP (Initials)



DECLARATION OF POSTING

PUBLIC HEARING FOR JULY 5, 2006, FOR THE ADOPTION OF ORDINANCE ESTABLISHING LOW INCOME DISCOUNTS FOR WATER AND WASTEWATER RATEPAYERS

On Friday, June 23, 2006, in the City of Lodi, San Joaquin County, California, a Notice of Public Hearing for July 5, 2006, for the Adoption of Ordinance Establishing Low Income Discounts for Water and Wastewater Ratepayers.

Lodi Public Library
Lodi City Clerk's Office
Lodi City Hall Lobby
Lodi Carnegie Forum

I declare under penalty of perjury that the foregoing is true and correct.


Executed on June 23, 2006, at Lodi, California.

ORDERED BY:

**JENNIFER M. PERRIN
INTERIM CITY CLERK**

JENNIFER M. PERRIN, CMC
INTERIM CITY CLERK

JACQUELINE L. TAYLOR, CMC
DEPUTY CITY CLERK



DANA R. CHAPMAN
ADMINISTRATIVE CLERK



CITY OF LODI

Carnegie Forum
305 West Pine Street, Lodi

NOTICE OF PUBLIC HEARING

Date: July 5, 2006

Time: 7:00 p.m.

For information regarding this notice please contact:

Jennifer M. Perrin
Interim City Clerk
Telephone: (209) 333-6702

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on **Wednesday, July 5, 2006**, at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a public hearing at the Carnegie Forum, 305 West Pine Street, Lodi, to consider the following matter:

- a) Adoption of resolution establishing low-income discounts for water and wastewater ratepayers (see Exhibit A attached)

Information regarding this item may be obtained in the City Attorney's Office, 221 West Pine Street, Lodi, (209) 333-6701. All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk, City Hall, 221 W. Pine Street, 2nd Floor, Lodi, 95240 at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street, at or prior to the close of the public hearing.

By Order of the Lodi City Council:


Jennifer M. Perrin
Interim City Clerk

Dated: June 21, 2006

Approved as to form:



D. Stephen Schwabauer
City Attorney

A RESOLUTION OF THE LODI CITY COUNCIL
ESTABLISHING LOW-INCOME DISCOUNTS FOR
WATER AND SEWER SERVICES

WHEREAS, with the implementation of new water, sewer, and refuse rates and charges adopted April 27, 2004, the Lodi City Council adopted Ordinance No. 1750 amending Lodi Municipal Code Chapter 13.04, §13.04.130, "Low Income Adjustments," at its September 15, 2004, City Council meeting; and

WHEREAS, the City Council now desires to adopt a resolution establishing Water and Sewer Services discounts for eligible low-income residents, and further desires to place the Resolution on the November 2006 ballot for citizen approval.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the Lodi City Council does hereby approve and establish low-income discounts for water and sewer services as shown below, which shall become effective the first billing period following the effective date of this Resolution:

For Residential Customers who qualify for the Electric SHARE Program discount:

Water	20%	Discount on the Residential Flat Rate
Wastewater	20%	Discount on the Residential Flat Rate for Disposal to the Domestic System

OR,

For Residential Customers who qualify for the Electric Senior/Fixed-Income discount:

Water	10%	Discount on the Residential Flat Rate
Wastewater	10%	Discount on the Residential Flat Rate for Disposal to the Domestic System

BE IT FURTHER RESOLVED that the water and wastewater discounts shall be funded by the ratepayers, collected with utility bills; and

BE IT FURTHER RESOLVED that the programs will be limited to two percent (2%) of the revenue of each utility. At current revenue levels this equals \$164,630 per year in wastewater and \$164,234 in the water utility; and

BE IT FURTHER RESOLVED that the City Council does hereby direct staff to institute a verification program whereby every three years 10% of 1/3 of the applicants' eligibility is re-confirmed; and

BE IT FURTHER RESOLVED that this Resolution shall be placed on the November 7, 2006 Ballot for citizen approval.

Dated: July 5, 2006

I hereby certify that Resolution No. 2006-_____ was passed and adopted by the City Council of the City of Lodi at its regular meeting held July 5, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

JENNIFER M. PERRIN
City Clerk

2006-_____

AGENDA TITLE: Appointments to the Animal Shelter Task Force, Lodi Arts Commission, and the San Joaquin County Commission on Aging

MEETING DATE: July 5, 2006

PREPARED BY: City Clerk



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolutions approving the 2006-07 Financial Plan and Budget and the 2006-07 Appropriations Spending Limit, OR adopt Resolution authorizing the continuation of expenditures from July 7, 2006 through July 22, 2006, if necessary

MEETING DATE: July 5, 2006

PREPARED BY: Deputy City Manager

RECOMMENDED ACTION: City Council adopt Resolutions approving the 2006-07 Operating Budget in the amount of \$199,998,489 and the Appropriations Spending Limit for 2006-07 of \$68,905.066. If 2006-07 Budget is not approved, adopt Resolution authorizing the continuation of expenditures from July 7, 2006 through July 22, 2006.

BACKGROUND INFORMATION: The Budget document for 2006-07 as presented at the May 31, 2006, Special Council meeting and as available in the City Clerk's office and on the City of Lodi web site, is to be considered for approval on July 5, 2006, at the regular City Council meeting. The Budget as presented to the City Council has been summarized in the two Resolutions to be considered for approval by City Council. The Resolutions reflect comments and direction that City staff received at the Council meetings of May 31, 2006 and June 7, 2006.

In addition, a late arriving budget request has been received from the Library Board of Trustees recommending the expenditure of \$150,000 from the Library Fund Balance for a variety of library refurbishments. If budgeted, this request will reduce the projected year-end fund balance from \$630,000 to \$480,000. (See page 14 of the draft FY 2006-07 budget.) The total library refurbishment project is budgeted at \$650,000 with revenues from a variety of public and private sources. Attached is a memorandum from the Library Director elaborating on the project and funding request. (NOTE: Due to time constraints, the above request has not been incorporated into any portion of the published draft budget.)

The City Manager recommends approval of the 2006-07 Budget. Upon adoption of the Budget, the final Budget document that reflects the Budget as approved by the Council will be prepared for distribution.

FISCAL IMPACT: Not applicable

FUNDING AVAILABLE: Not Applicable

James R. Krueger, Deputy City Manager

APPROVED: _____
Blair King, City Manager

Memorandum

To: City Council
From: Library Board of Trustees
CC: Blair King, City Manager
Date: June 30, 2006
Re: Authorization to expend \$150,000 from the Library Fund balance to pay for a portion of the Library Refurbishment project

The Lodi Public Library was built in 1978 with a federal public works grant. The facility features 1970's décor and technology. The carpeting, wall treatments and floor tiling are worn from usage and need replacing for safety as well as aesthetic reasons. In the past ten years designated areas of the facility have been upgraded largely through outside funding sources.

In 2000 a renovation project converted a storage room in the children's area into a public Computer Learning Center. This \$60,000 project was funded by Lodi Public Library Foundation.

In 2001 two rooms in the library administration area were remodeled (including painting, carpeted and lighting improvements and some office systems furniture to accommodate the new literacy office and director's office. This project was financed with California Library Literacy Services grant funds.

In 2002 a modest \$4,000 project enhanced the staff room for library personnel.

In 2002 the community room/lobby area of the library was refurbished with new carpeting, painting, window treatments, acoustical paneling, ADA door hardware and plumbing. This \$100,000+ project was funded through the Board's Private Sector Trust Fund, library's fund balance, a small CDBG grant, and \$2,700 in Public Benefits funds for lighting.

In late 2004 realizing that the expansion of the library designated in the Library Facilities Master Plan of 2002 would be delayed significantly, library administration began gathering information for a project to refresh the library's worn and tired public look. The Library Board of Trustees allocated Private Sector Trust Fund moneys to work with the architectural firm WMB to create a plan for the refurbishment of the library facility

The current 2006 refurbishing project is designed to replace the current worn and cracked flooring coverings, refresh the library décor with lighter surfaces, upgrade and relocate the library service desks, provide inviting reading areas for children, parents, and teens, provide more accessible public Internet computers, provide more tutoring/study rooms (as requested in the Facilities Master Plan survey) and upgrade the children's and staff restrooms for ADA compliance. The project is designed to create a more inviting atmosphere with merchandising display areas for library books and media, a café seating area and a relaxing "living room." The project includes two subset projects—an upgrade to the lighting and upgrade of the entrance ramp for ADA compliance.

The initial estimates for the project are \$650,000. The Lodi Public Library Foundation Board of Directors committed \$200,000 towards the project at their April 13, 2006 meeting. The Library Board of Trustees has authorized the expenditure of \$250,000 from the Private Sector Trust Funds. The lighting upgrade portion of the project is slated for funding by the EUD Public Benefits Program. The modification of the library facility's entrance ramp has received a Community Development Block Grant.

Library administration and the Library Board of Trustee are requesting authorization to expend \$150,000 of the Library Fund Balance for the Facilities Upgrade.

The Library Fund balance is conservatively projected to be \$630,000 at the end of FY 2005/06—the proposed expenditure is a 24% reduction. After expending \$150,000 on the refurbishing project, the remaining library fund balance will represent approximately 28% of the library operating budget. Library Board of Trustees Private Sector Trust Fund balance as of May 31, 2006 is \$759,000—the proposed expenditure is a 33% reduction of this account. The undesignated balance of the Lodi Public Library Foundation investments is \$520,000—the proposed expenditure is a 39% reduction of these assets.

FUNDING: \$200,000 Lodi Public Library Foundation
 \$250,000 Lodi Public Library Board of Trustees Private Sector Trust Fund
 \$150,000 Lodi Public Library Fund Balance
 \$ 10,000 Friends of Lodi Public Library
 \$ 40,000 EUD Public Benefits Fund
 \$ 31,000 Community Development Block Grant

Nancy C. Martinez
Library Services Director

NM/slb

Attachments

cc:

RESOLUTION NO. 2006-_____

A RESOLUTION OF THE LODI CITY COUNCIL ADOPTING THE 2006-07
OPERATING AND CAPITAL IMPROVEMENT BUDGET FOR THE FISCAL YEAR
BEGINNING JULY 1, 2006 AND ENDING JUNE 30, 2007, AND FURTHER
APPROVING THE 2006-07 APPROPRIATIONS SPENDING LIMIT

WHEREAS, the City Manager submitted the 2006-07 balanced Operating and Capital Improvement Budget to the City Council on May 31, 2006; and

WHEREAS, the 2006-07 Operating and Capital Improvement Budget was prepared in accordance with the City Council's goals, budget assumptions, and policies; and

WHEREAS, the City Council conducted public budget meetings on May 31, June 6 and June 7 at the Carnegie Forum; and

WHEREAS, the City Council is required to adopt the Appropriations Spending Limit for 2006-07; and

WHEREAS, the Appropriations Spending Limit and the annual adjustment factors selected to calculate the Limit are part of the Financial Plan and Budget.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lodi as follows:

1. That the 2006-07 Operating and Capital Improvement Budget, as proposed by the City Manager and amended by the City Council (with the exclusion of the Lodi Conference and Visitors Bureau element, voted on separately and reflected in Resolution 2006-_____), be approved as follows:

	Budget
General Fund	
Police	14,240,003
Fire	8,701,513
Public Works	3,995,581
Parks and Recreation	3,963,715
Community Center	1,433,542
City Clerk	607,565
City Manager	4,391,435
City Attorney	465,572
Non-Departmental	6,116,105
Total General Fund	43,915,031
Electric Utility Fund	70,553,889
Water Utility Fund	13,034,844
Wastewater Utility Fund	40,657,024
Library Fund	1,711,336
Community Development Fund	2,127,951
Streets Fund	8,295,118
Transit Fund	4,721,928
Benefits Fund	6,034,652
Self Insurance Fund	2,933,518
Capital Outlay Fund	1,557,836
Debt Service Fund	1,771,653
Equip and Vehicle Replacement Fund	360,000
Fleet Services Fund	1,779,929
Transportation Development Act	288,780
Agency	255,000
Total All Funds	199,998,489

2. That the funds for the 2006-07 Operating Budget are appropriated as summarized in the document on file in the City Clerk's Office; and
3. That the Appropriations Spending Limit be increased by \$2,822,948 from the 2005-06 level of \$66,082,118 to the 2006-07 level of \$68,905,066.

Dated: July 5, 2006

=====

I hereby certify that Resolution No. 2006- was passed and adopted by the City Council of the City of Lodi in a regular meeting held July 5, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

JENNIFER M. PERRIN
Interim City Clerk

2006-

2006-07 FINANCIAL PLAN AND BUDGET

APPROPRIATIONS SPENDING LIMIT

2006-07 APPROPRIATIONS SPENDING LIMIT

				AMOUNT
Last Year's Limit				66,082,118
Adjustment Factors				
1	Population %	1.0030		
2	Inflation %	1.0396		
Total Adjustment %				1.0427
Annual Adjustment				2,822,949
Adjustments				None
Total Adjustments				2,822,949
2006-07 APPROPRIATIONS SPENDING LIMIT				68,905,066

2006-07 APPROPRIATIONS SUBJECT TO LIMITATION

		AMOUNT
PROCEEDS OF TAXES		34,165,830
EXCLUSIONS		-
APPROPRIATIONS SUBJECT TO LIMITATION		34,165,830
CURRENT YEAR LIMIT		68,905,066
OVER(UNDER) LIMIT		(34,739,236)

EXHIBIT A

City of Lodi
Appropriations Spending Limit
Fiscal Year 06-07

			Amount	Source
A.	Last Year's Limit		66,082,118	
B.	Adjustments Factors			
	1	Population %	1.003	(Exhibit B)
	2	Inflation %	1.0396	(State Finance)
	Total Adjustment %		1.0427	(B1*B2)
C.	Annual Adjustment		2,822,949	(B*A)
D.	Other Adjustments		None	
E.	Total Adjustments		2,822,949	(C+D)
F.	This Year's Limit		68,905,066	(A+E)

City of Lodi
Appropriations Spending Limit
Growth Factors/Calculations

EXHIBIT B

GROWTH FACTORS:		%Increase	
Fiscal Year	Per Capita Income	City Population	County Population
87-88	3.47	5.72	3.33
88-89	4.66	4.96	3.32
89-90	5.19	2.52	2.20
90-91	4.21	2.26	2.23
91-92	4.14	1.19	2.64
92-93	-0.64	0.97	2.41
93-94	2.72	0.73	2.13
94-95	0.71	0.51	1.57
95-96	4.72	1.31	1.59
96-97	4.67	1.68	1.85
97-98	4.67	0.70	1.21
98-99	4.15	1.16	1.47
99-00	4.53	1.94	1.44
00-01	4.91	1.29	1.78
01-02	7.82	1.90	2.71
02-03	-1.27	2.14	3.07
03-04	2.31	1.69	2.86
04-05	3.28	0.75	2.54
05-06	5.26	0.96	2.65
06-07	3.96	0.30	2.00

CALCULATIONS:		Appropriation	
Fiscal Year	Calculation		Spending Limit
87-88	1.0347 x 1.0572 = 1.0939 1.0939 x \$22,654,787	=	\$24,782,072
88-89	1.0466 x 1.0496 = 1.0985 1.0985 x \$24,782,072	=	\$27,223,106
89-90	1.0519 x 1.0252 = 1.0784 1.0784 x \$27,223,106	=	\$29,357,398
90-91	1.0421 x 1.0226 = 1.0657 1.0657 x \$29,357,398	=	\$31,286,179
91-92	1.0414 x 1.0264 = 1.0689 1.0689 x \$31,286,179	=	\$33,441,797
92-93	.9936 x 1.0241 = 1.0175		

	1.0175 x 33,441,797	=	\$34,027,028
93-94	1.0272 x 1.0213 = 1.0491 1.0491 x 34,027,028	=	\$35,697,755
94-95	1.0071 x 1.0157 = 1.0229 1.0229 x 35,697,755	=	\$36,515,234
95-96	1.0472 x 1.0131 = 1.0609 1.0609 x 36,515,234	=	\$38,739,012
96-97	1.0467 x 1.0168 = 1.0643 1.0643 x 38,739,012	=	\$41,229,332
97-98	1.0467 x 1.0070 = 1.0540 1.0540 x 41,229,332	=	\$43,456,825
98-99	1.0415 x 1.0116 = 1.0536 1.0536 x 43,456,825		\$45,785,303
99-00	1.0453 x 1.0194 = 1.0656 1.0656 x 45,785,303		\$48,787,849
00-01	1.0491 x 1.0129 = 1.0626 1.0626 x 48,787,849		\$51,843,597
01-02	1.0782 x 1.0190 = 1.0987 1.0986858		\$56,959,824
02-03	.9873 x 1.0214 = 1.00843 1.00842822		\$57,439,894
03-04	1.0231 x 1.0169 = 1.0404 1.04039039		\$59,759,913
04-05	1.0328 x 1.0075 = 1.040546 1.040546		\$62,182,939
05-06	1.0526 x 1.0096 = 1.06270496 1.06270496		\$66,082,118
06-07	1.0396 x 1.0030 = 1.0427188 1.0427188		\$68,905,066

05-06 Appropriations Subject to Limit:

<u>\$34,165,830</u>	=	49.58%
568,905,066		

APPROPRIATIONS SUBJECT TO LIMITATION

City of Lodi
Fiscal Year 06-07

	AMOUNT	SOURCE
A. PROCEEDS OF TAXES	34,165,830	(Exhibit F)
B. EXCLUSIONS	0	(Exhibit D)
C. APPROPRIATIONS SUBJECT TO LIMITATION	34,165,830	(A-B)
D. CURRENT YEAR LIMIT	68,905,066	(Exhibit A)
E. OVER(UNDER) LIMIT	(34,739,236)	(C-D)

$$\frac{34,165,830}{68,905,066} = 49.58\%$$

EXHIBIT D

EXCLUDED APPROPRIATIONS

City of Lodi
Fiscal Year 06-07

CATEGORY		Amount
COURT ORDERS		
Subtotal		None
FEDERAL MANDATES		
Subtotal		None
QUALIFIED CAPITAL OUTLAYS		
Subtotal		None
QUALIFIED DEBT SERVICE		
Subtotal		None
TOTAL EXCLUDABLE		None

(Copy to Exhibit C & G)

City of Lodi
Schedule to Match User Fees to Costs
Fiscal Year 06-07

EXHIBIT E

	User Fee Collections	Cost Associated With User Fees	Amount in Excess of User fees
Public Safety Fees	264,895	22,831,516	0
Parks and Recreation Fees	882,059	3,963,714	0
Community Center Fees	339,000	1,433,542	0
Community Development Fees	625,301	2,127,951	0
PW Engineering Fees	264,000	1,668,064	0
Administrative Fees	-	19,616,012	0
Library Fees	50,000	1,711,336	0
Total	<u>2,425,255</u>	<u>53,352,135</u>	<u>0</u>

EXHIBIT F

Calculation - Proceeds of Taxes

City of Lodi
Fiscal Year 06-07

REVENUE	PROCEEDS OF TAXES	NON-PROCEEDS OF TAXES	TOTAL
TAXES:			
Property Taxes	8,382,708		8,382,708
Sales & Use Tax	10,380,701	350,494	10,731,195
Business License Tax	1,104,872		1,104,872
Franchise Tax	1,075,616		1,075,616
Transient Occupancy Tax	392,122		392,122
Real Property -Documentary Tax	240,000		240,000
In-Lieu Franchise Tax	8,679,485		8,679,485
FROM STATE			
Motor Vehicle In Lieu	3,891,405		3,891,405
State H-way Maintenance		4,053	4,053
Gas Tax		1,136,000	1,136,000
Cigarette tax			0
Transportation Development Act		2,151,878	2,151,878
TDA -Pedestrian/Bike Path		48,000	48,000
SB 300 Transportation Partnership		0	0
Measure K Funds		6,600,000	6,600,000
State Reimbursements-POST		36,765	36,765
Public Library grants		63,000	63,000
PERS Rebate		0	0
SB90 Reimbursements		40,000	40,000
Asset Seizure Funds/Auto Theft		0	0
Drug Suppression Grant		125,617	125,617
State special grants		293,600	293,600
State STIP reimbursement		0	0
LOCALLY RAISED			
Fines, Forfeitures, Penalties		1,336,175	1,336,175
Licenses and permits		1,185,588	1,185,588
Rent of City Property		363,193	363,193
Development Fees		3,365,000	3,365,000
USER FEES			
(from Exhibit E)	0	2,425,255	2,425,255
OTHER MISCELLANEOUS			
Sale of Property		26,437	26,437
Restitution-Damage to Property		25,000	25,000
Other revenue		413,086	413,086
Interfund Transfers		5,279,931	5,279,931
SUB-TOTAL (for Exhibit G)	34,146,909	25,269,072	59,415,981
INTEREST EARNINGS (from Exhibit G)	18,921	14,001	32,922
TOTAL REVENUE (use for Exhibit C)	34,165,830	25,283,073	59,448,903
RESERVE WITHDRAWALS (including appropriated Fund Balance)			0
TOTAL OF THESE FUNDS			59,448,903
OTHER FUNDS NOT INCLUDED			136,473,781
GRAND TOTAL BUDGET			195,922,684

Interest Earnings
Produced by Taxes

City of Lodi
Fiscal Year 06-07

	AMOUNT	SOURCE
A. NON-INTEREST TAX PROCEEDS	34,146,909	^(Exhibit F)
B. MINUS EXCLUSIONS	0	(Exhibit D)
C. NET INVESTED TAXES	34,146,909	(A-B)
D. TOTAL NON-INTEREST BUDGET	59,415,981	^(Exhibit F)
E. TAX PROCEEDS AS PERCENT OF BUDGET	57.47%	(C/D)
F. INTEREST EARNINGS	32,922	
G. AMOUNT OF INTEREST EARNED FROM TAXES	18,921	(E*F)
H. AMOUNT OF INTEREST EARNED ON NON-TAXES	14,001	(F-G)
I. Take the result of steps #G & H Copy on to Exhibit F		

RESOLUTION NO. 2006-_____

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING FUNDING
IN THE AMOUNT OF \$108,500 TO THE LODI CONFERENCE AND
VISITORS BUREAU FOR FISCAL YEAR 2006-07

=====

WHEREAS, the City Manager submitted the 2006-07 balanced Operating and Capital Improvement Budget to the City Council on May 31, 2006; and

WHEREAS, the Lodi City Council approved the 2006-07 Operating and Capital Improvement Budget at its meeting of July 5, 2006 (Resolution 2006-_____) with the exclusion of the Lodi Conference and Visitors Bureau element.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lodi that it hereby approves funding in the amount of \$108,500 to the Lodi Conference and Visitors Bureau for fiscal year 2006-07.

Dated: July 5, 2006

=====

I hereby certify that Resolution No. 2006-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held July 5, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

JENNIFER M. PERRIN
Interim City Clerk

2006-_____



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Consider Adoption of Resolution Affirming July 1 Opening and October 1 Closing Date for Filing Applications for Residential Allocations Under the Lodi Growth Management Ordinance, and Direct Staff to work with the Development Community to Establish a New Timeline for Council Approval of Various Elements of Development Approvals.

MEETING DATE: July 5, 2006 City Council Meeting

PREPARED BY: City Attorney's Office

RECOMMENDED ACTION: That the City Council adopt Resolution affirming July 1 Opening and October 1 Closing Date for Filing Applications for Residential Allocations under the Lodi Growth Management Ordinance.

BACKGROUND INFORMATION: The Lodi City Council established the opening and closing dates for Growth Management Allocation Applications in 1991 through Resolution 91-171 (Exhibit A). Resolution 91-171 provides that applications may not be filed until July 1 of each year, and that the application period closes on October 1 of each year. Subsequent to the passage of Resolution 91-171, former City staff working with the development community, established a new timeline for filing growth management applications, moving the closing date up to May 31. This new process was never codified in a new Council resolution, instead being imposed solely at the staff level upon staff authority. However, staff has no authority to contravene the express will of the Council as codified in a Resolution without seeking Council authority.

One could argue that such authority was later granted by Council through the passage of the 2003 Housing Element Update. The Housing Element update states:

A constraint unique to Lodi is that development plans may only be submitted during the month of May, the deadline for obtaining a housing unit allocation under the City's growth management process. If the deadline is missed, projects have to wait another year before submitting applications and the review process can begin again. The City could mitigate this constraint by providing a process whereby allocations would be approved at least semi-annually or quarterly during years when the number of allocations that can be granted are not exhausted in May. . . .For developers knowledgeable of the City's residential permit allocation process, the annual process (once per year in May) does not present a serious time constraint or delay because such developers plan their applications submittals to the City to account for the timing of the allocation, and the development plan review occurs as part of the allocation process (2003 Housing Element Update P.III-34 to 35 - marked as Exhibit B).

However, the affirmation of this change was not explicitly brought to the Council's attention, instead being presented as the established policy. For this reason, staff felt it important to bring the question back to Council for a final resolution.

APPROVED:

Blair King, City Manager

Resolution 91-171 also sets a number of other follow-up deadlines to the growth management allocation process. However, the follow-up dates are not established in writing or in any remaining oral history of the Community Development Department for the Staff Policy. Nor are any of these follow-up dates reflected in the 2003 Housing Element Update.

	<u>Resolution No. 91-171</u>	<u>Staff Policy</u>
Determination of Completeness of Application	November 1	?
Initial Study under California Environmental Quality Act (CEQA)	December 1	?
Complete Draft Environmental Impact Report, (EIR) if required	March 1	?
Environmental Impact Report (EIR) Public Comment Close	April 15	?
Final Environmental Impact Report (EIR)	May 1	?

None of the above timetables are workable where an EIR is required (which is the case with two of the projects currently being processed by staff). Staff has been informed by outside consultants that the minimum time frame for a draft EIR is six months and more likely nine months. Moreover, the 15 days provided before bringing the EIR to Council for certification does not provide adequate time to analyze and respond to public comment or bring the EIR to Planning Commission for a recommendation. As such a new process is needed.

Accordingly, staff recommends that the Council affirm the timelines set forth in Resolution No. 91-171 and direct staff to work with the development community to establish a new timeline for Council approval. This change would not be a significant change to our housing element or affect its certification negatively because it is a one-time change that will not slow the annual allotment of housing other than in one year.

FISCAL IMPACT:

Stephen Schwabauer, City Attorney

RESOLUTION NO. 91-171

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A RESOLUTION OF THE LODI CITY COUNCIL
ESTABLISHING GUIDELINES, CONTENTS, AND TIME FRAMES
OF AND FOR DEVELOPMENT PLANS

=====

WHEREAS, Ordinance No. 1521, adopted by the City Council on September 18, 1991 provides that a "Development Plan" shall be submitted for all tentative maps, parcel maps and other approvals under the Subdivision Map Act; and

WHEREAS, Ordinance No. 1521 further provides that the format and contents of such development plans shall be established by Council resolution;

NOW, THEREFORE, BE IT RESOLVED, by the City Council that the following shall apply to Development Plans:

A. Development Plan: Contents.

A development plan shall include:

1. A map showing any street system and/or lot design proposed within the development. Any area proposed to be dedicated or reserved for parks, open-space conservation, playgrounds, school sites, public buildings, churches and other such uses *must* be shown. Compliance with this requirement shall not be construed to relieve the applicant from compliance with City and State Subdivision regulations or any other applicable local or state laws.

2. A map showing the location of all trees over nine (9) inches in diameter with an indication of removal or incorporation into project design.
3. If required by the Community Development Department, a map showing the topography (with contour lines at one-foot intervals) shall be provided by the applicant. The map shall indicate the proposed elevations at the project boundaries and adjacent waterways;
4. The applicant shall provide a land-use plan for the proposed development indicating the areas to be used for the various purposes; a land-use map showing existing uses within the development and uses (including agricultural uses) within five hundred feet of the proposed development;
5. A plot plan for each building site or sites, except single-family residents on standard lots in the proposed development or any other portion thereof as required by the Community Development Department. A plot plan shall show the approximate location of all proposed buildings, indicate maximum and minimum distances between buildings and between buildings and property or building site lines;
6. Any or all of the following plans and diagrams may also be required to be included on the plot plan or appended thereto:
 - (a) Off-street parking and loading plan.

RES91171/TXTA.02J

- (b) A circulation diagram indicating the proposed movement of vehicles, goods and pedestrians within the development and to and from adjacent public thoroughfares.
- 7. Elevations or perspective drawings of all proposed structures, except single-family residences and their accessory buildings. Such drawings need not be the result of final architectural decisions and need not be in detail. The purpose of such drawings is to indicate within stated limits the height of proposed buildings and the general appearance of the proposed structures to the end that the entire development will have architectural unity and be in harmony with the surrounding developments;
- 8. Engineering data as described in the City of Lodi Public Improvement Design Standards.

B. Development Schedule.

- 1. An application shall be accompanied by a development schedule indicating to the best of the applicant's knowledge the approximate date when construction of the project can be expected to begin, the anticipated rate of development and the completion date. The development schedule, if approved, shall become a part of the development plan and shall be adhered to by the owner or owners of the property and his successors in interest.

2. From time to time the Planning Commission shall compare the actual development accomplished with the approved development schedules.
3. If, in the opinion of the Planning Commission, the owner or owners of property are failing or have failed to meet the approved schedule, the Planning Commission may initiate proceedings to amend or revoke the approval of the development plan.
4. If the Tentative Subdivision Map is not filed one year after approved, the Planning Commission may forfeit the approved allocations to the next project on the list.
5. If the Planning Commission determines that a proposed Development Plan will require multi-year allocation to complete, each year of the development schedule shall be approved for a stated number and type of residential units.
6. Tentative Subdivision Maps will not be accepted until the Planning Commission has approved the Development Plan and Development Schedule and allocated the number of units either on a single-year or multi-year basis. The City may require individual tentative maps for each year's phasing of multi-year allocations.

C. Applications for Allocation: Time.

1. The application period for allocation of residential units in the City shall open July 1 and close October 1 of each year.

RES91171/TXTA.02J

2. The City shall make a Determination of Completeness by November 1 of the same year.

3. An Initial Study under the California Environmental Quality Act shall be completed and a preliminary point score evaluation of the project, utilizing the criteria adopted by Council resolution hereunder, shall be done by the City no later than December 1.

4. On or before the following March 1, a Draft Environmental Impact Report (if required) shall be completed.

5. The period for public review/comment on the Draft Environmental Impact Report shall end April 15 and the final Environmental Impact Report completed by May 1.

6. The Planning Commission and City Council shall thereafter, not later than July 1, conduct all necessary public hearings and reviews of the proposed projects, and shall approve or deny such proposals.

7. Based on such hearings/reviews and by reference to the point system evaluation described in this Chapter, the City Council shall, not later than September 30, allocate approvals of residential units. Thereafter, applicant shall submit a tentative map for a project, utilizing the number of allocated units awarded for each year.

Dated: September 4, 1991

=====

I hereby certify that Resolution No. 91-171 was passed and adopted by the Lodi City Council in a regular meeting held September 4, 1991 by the following vote:

Ayes: Council Members - Pennino, Pinkerton, Sieglock, Snider
and Hinchman (Mayor)

Noes: Council Members - None

Absent: Council Members - None


Alice M. Reimche
City Clerk

91-171

RES91171/TXTA.02J

-6-

2003-2009 HOUSING ELEMENT

CITY OF LODI



Site Plan and Architectural Review is facilitated by the Site Plan and Architectural Approval Committee, which was established to assist the Planning Commission in reviewing site plans and architectural drawings. Four of the five members are appointed by the Mayor, while the fifth member is the Vice-Chair of the Planning Commission. The decision issued by the Site Plan and Architectural Review Committee is appealable to the City Planning Commission. The City's Planning Commission is the final regulatory authority that issues decisions on most developments within the City.

Applicants are required to submit the following information to the City for Committee review:

- Siting of structures so as to preserve light and air on adjoining properties;
- Landscaping and/or fencing of yards and setback area, use of landscaping and/or wall or fencing for screening purposes;
- Design of ingress and egress;
- Off-street parking and loading facilities;
- Drawings or sketches of the exterior elevations; and
- Designation of location of existing fire hydrants.

These requirements are relatively easy to meet and do not add significantly to the cost or time required for site plan review.

The Committee may approve, disapprove, or conditionally approve a project subject to compliance with modifications or conditions it deems necessary to comply with the City's zoning code standards. The Committee has up to 21 days to make a decision. Upon approval of submitted plans, or at the expiration of twenty-one days, the City's issues building permit, provided that all building code requirements have been met and the applicant does not need a use permit (which triggers Planning Commission review).

The Committee's decision may be appealed to the Planning Commission. Appeals must be filed within five working days of the Committee's decision.

Project Approval Timeframes

A typical residential subdivision takes approximately four to five months to be approved through the required steps of the development plan review process. If the project is subject to compliance with the California Environmental Quality Act, an additional four to five months may be required to obtain all necessary project approvals.

Development of multifamily housing units is subject to review by the Site Plan and Architecture Approval Committee. It takes approximately eight weeks to complete staff review before the development can be submitted to the committee. Smaller developments in the City such as one single family home or two- to four-unit multifamily structures are only required to obtain building permits, which takes significantly less of time than the site plan and architectural review process.

A constraint unique to Lodi is that development plans may only be submitted during the month of May, the deadline for obtaining a housing units allocation under the City's growth management process. If the deadline is missed, projects have to wait another year before submitting applications and the review process can begin again. The City could mitigate this constraint by providing a

process whereby allocations could be approved at least semi-annually or quarterly during years when the number of allocations that can be granted are not exhausted in May.

Table III-10: Development Approval Timeframes

Development Permit/Review Process	Time Frame
Administrative Deviation	2-3 weeks
Use Permit	4 weeks
Tentative Tract Map	4 weeks
Development Plan Review	4-5 months
General Plan Amendment/Rezone	6 weeks
Environmental Review (EIR)	5 months
Appeal to Planning Commission	4 weeks
Appeal to City Council	4 weeks

Source: City of Lodi, 2003

A typical single-family development will require a residential allocation, tentative and final tract map, environmental review (Negative Declaration or EIR), Planning Commission review, City Council review (if a Planning Commission decision is appealed), and construction permits (building, grading, etc.). From start to finish, the process will typically take six to 12 months. A large or complex project, particularly one triggering state or federal environmental mandates, can take longer.

A typical multi-family project will require a residential allocation, use permit, environment review, development plan review, Planning Commission review, and City Council review (if a Planning Commission decision is appealed), and construction permits (building, grading, etc.). From start to finish, the process will typically take six to nine months. A large or complex project, particularly one triggering state or federal environmental mandates or an EIR, can take longer.

For developers knowledgeable of the City's residential permit allocation process, the annual process (once per year in May) does not present a serious time constraint or delay because such developers plan their applications submittals to the City to account for the timing of the allocation, and the development plan review occurs as part of the allocation process.

Use Permits

Chapter 17.72 of Lodi's Zoning Ordinance includes regulations and standards related to the granting of use permits. All developments requiring use permits are subject to the same review process, regardless of use. Residential uses required to obtain use permits in Lodi, depending on the zoning district (see Table X-1), include second units, family care homes, rest homes, convalescent homes, and mobile home/travel trailer parks.

Use permits are approved by the City's Planning Commission. The Commission must find that the proposed use will not be detrimental to the health, morals, comfort, or welfare of the citizens of the immediate, surrounding neighborhood and the City in general. These standards are typical

RESOLUTION NO. 2006-_____

A RESOLUTION OF THE LODI CITY COUNCIL AFFIRMING
JULY 1 OPENING AND OCTOBER 1 CLOSING DATE FOR
FILING APPLICATIONS FOR RESIDENTIAL ALLOCATIONS
UNDER THE LODI GROWTH MANAGEMENT ORDINANCE

=====

WHEREAS, the Lodi City Council established the opening and closing dates for Growth Management Allocation Applications in 1991 by adopting Resolution 91-171 (Exhibit A); and

WHEREAS, Resolution 91-171 provides that applications may not be filed until July 1 of each year, and that the application period closes on October 1 of each year; and

WHEREAS, subsequent to the passage of Resolution 91-171, former City staff working with the development community, established a new timeline for filing growth management applications, moving the closing date up to May 31; and

WHEREAS, this new process was never codified in a new Council resolution, instead being imposed solely at the staff level upon staff authority; and

WHEREAS, Resolution 91-171 also sets a number of other follow-up deadlines to the growth management allocation process; and

WHEREAS, staff recommends that the City Council affirm the timelines set forth in Resolution No. 91-171 and direct staff to work with the development community to establish a new timeline for Council approval.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby affirm the timelines set forth in Resolution No. 91-171 and hereby directs staff to work with the development community to establish a new timeline for Council approval.

Dated: July 5, 2006

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I hereby certify that Resolution No. 2006-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held July 5, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

JENNIFER M. PERRIN
Interim City Clerk

2006-_____



CITY OF LODI

COUNCIL COMMUNICATION

TM

AGENDA TITLE: Approval of Expenses Incurred by Outside Counsel/Consultants Relative to the Environmental Abatement Program Litigation and Various Other Cases being Handled by Outside Counsel (\$15,561.48)

MEETING DATE: July 5, 2006 City Council Meeting

PREPARED BY: City Attorney's Office

RECOMMENDED ACTION: That the City Council approve for payment expenses incurred by outside Counsel/Consultants related to the Environmental Abatement Litigation in the total amount of \$9,014.50, and various other cases being held by Outside Counsel in the amount of \$6,546.98.

BACKGROUND INFORMATION: Listed below are invoices from the City's outside counsel, Folger, Levin & Kahn; and Kronick, Moskovitz, Tiedemann & Girard for services incurred relative to the Environmental Abatement Program litigation, and various other matters that are currently outstanding and need to be considered for payment.

Folger Levin & Kahn - Invoices 183453.7323

Invoice No.	Date	Description	Amount
Withheld	Amounts	from Previous Invoices	
94738	03/01/06		\$1,367.00
94732	03/01/06		650.00
93892	02/06/06		2,115.00
93280	01/06/06		1,175.00
92663	12/05/06		235.00
6200	4/30/2006	Peter Krasnoff/WEST	<u>1,037.50</u>
Total			\$6,579.50

Kronick Moskovitz Tiedemann & Girard - Invoices Distribution

Invoice No.	Date	Description	Total		
			Amount	100351.732	183453.732
225700	05/25/06	General advice	603.07	603.07	
225700	05/25/06	ClaimsbyEnvironmentalConst	38.00		38.00
225700	05/25/06	Lodi First v. City of Lodi	1,859.90	1,859.90	
225700	05/25/06	Citizens for Open Govt.v.Col	494.20	494.20	
225700	05/25/06	AT&T v. City of Lodi	3,589.81	3,589.81	
225700	05/25/06	Water Supply Issues	<u>2,397.00</u>		<u>2,397.00</u>
			<u>8,981.98</u>	<u>6,546.98</u>	<u>2,435.00</u>

APPROVED: _____

Blair King, City Manager

FISCAL IMPACT: Expenses in the amount of \$2354.10 will be paid out of the General Fund and billed to Walmart for City's defense of the Lodi First and Citizens for Open Government litigation. The remaining expenses will be paid out of the Water Fund.

FUNDING AVAILABLE:

Water Fund	\$9,014.50
General Fund	\$6,546.98

Approved: _____
Ruby Paiste, Interim Finance Director

Approved: _____
Stephen Schwabauer, City Attorney



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Provide direction regarding scheduling and type of action the Council may take at informal informational meetings referred to as “Shirtsleeve” City Council meetings.

MEETING DATE: July 5, 2006

PREPARED BY: City Manager

RECOMMENDED ACTION: Provide direction regarding scheduling and type of action the Council may take at informal informational meetings referred to as “Shirtsleeve” City Council meetings.

BACKGROUND INFORMATION: Recently, Councilmembers have asked to discuss the nature and rules governing the Tuesday morning informal, informational City Council meetings referred to as “Shirtsleeve” meetings.

Regularly scheduled informal Council meetings have been held for at least the past 30 years and possibly, much longer. An Ordinance authorizing weekly Tuesday 7:00 a.m. informal informational meetings was adopted on November 19, 1975 (LMC 2.04.020). According to the City Clerk’s office, there is evidence that regularly scheduled informal meetings had been held prior to the adoption of the 1975 Ordinance. These meetings are commonly referred to as “Shirtsleeve” meetings. This name denotes a study session that allows the Council to study in depth specific issues (taking off one’s jacket and rolling up the sleeves) in an informal setting. According to the Code, “no formal action shall be taken by the City Council at such meetings”. Recently, discussion has arisen concerning what action, if any, the Council might take at shirtsleeve meetings.

To assist the Council in defining the issues, a series of questions are presented:

1. As a practical matter, can a legislative body realistically expect to conduct a Regular Meeting on a regular basis, where deliberation does not occur and/or direction given?
2. Under present circumstances, does the Council collectively, or individually, believe that it does, or does not provide direction?
3. Does the City Manager believe that it has not received direction?
4. Does the public or the press believe that direction has not been provided?
5. If indeed the Council might provide direction, and/or the City Manager believes that direction has been provided, and/or the public believes that direction is being provided, should these regular meetings occur at 7:00 a.m.?

The Ralph M. Brown Act (Government Code Section 54950 and following) is the State law that ensures, with some exceptions, that all meetings of the local legislative body are open to the public. The Brown Act defines a meeting as “any congregation of a majority of the members of the legislative body in the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains.”

APPROVED: _____
Blair King, City Manager

According to the California Journalist's Legal Notebook, "a meeting may occur not only when there is no "action" taken, but even when the members' role is confined to hearing about a matter – when they are being briefed about it."

The Brown Act establishes three types of meetings: Regular, Special, and Emergency Meetings. The definition of a Regular Meeting is that it is on a fixed schedule at a fixed location that has formally been adopted by the agency. The Tuesday 7:00 a.m. informal informational meeting is a Regular Meeting under the Brown Act. Generally, the rules for notice are higher for a Regular Meeting than a Special Meeting and a Special Meeting than an Emergency Meeting. Also, the right of the public to address the Council is different for each meeting.

Regular Meetings are required to post an agenda 72 hours in advance of the meeting, provide a brief general description of each item of business to be transacted or discussed, and provide the public the opportunity to directly address the legislative body on any item of interest to the public. With regard to the brief description, the Attorney General's guide says "the purpose of the brief general description is to inform interested members of the public about the subject matter under consideration so that they can determine whether to monitor or participate in the meeting of the body."

The Brown Act makes the case that a Regular Meeting is a Regular Meeting is a Regular Meeting. It is not ambiguous. The Brown Act does not allow a Special Meeting to be substituted for a Regular Meeting to allow the Council to take action it could not have taken at a Regular Meeting. The Brown Act encourages public agencies to provide notice to allow individuals to attend meetings to monitor and participate on subjects important to them.

If Council concurs that as a practical matter it is not realistic to expect that the Council would conduct a Regular Meeting and not ask questions, expect answers, nor deliberate, then the Council is asked to consider whether or not Tuesday morning is the best time for a Shirtsleeve meeting. As an alternative, the Council could conduct Shirtsleeve meetings (limited to one or two agenda items) on the second and fourth Wednesdays of the month, from 5:30 p.m. to 7 p.m., prior to Planning Commission meetings.

Staff has contacted Comcast regarding broadcast of these meetings Wednesday night. Comcast has indicated due to staff limitations, they are unable to broadcast these meetings.

Staff is not recommending that the Council have "full" meetings every Wednesday. The City is not staffed to prepare agendas for a "full" meeting every week and staff is concerned with Shirtsleeve Sessions evolving into more extensive meetings (more than two agenda items). However, the second and the fourth Wednesdays of the month are attractive as alternative "Shirtsleeve dates" as they have a "built-in" adjournment deadline with Planning Commission meetings scheduled at 7:00.

In conclusion, it has been the consistent position of City staff that Council study sessions are important and worthwhile. However, the Council should reconcile the practical matter of whether or not the Council may want to deliberate on matters presented at a regularly scheduled study session and provide direction to the City Manager. Then, the Council should consider the time it might want to hold such regularly scheduled informational meetings in order to maximize public participation. If the City Council wishes to change the current structure of Shirtsleeve sessions, it will need to amend the Municipal Code.

FISCAL IMPACT: Not applicable

Blair King
City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Review and Discussion of Current Regulations Pertaining to Food Vending Vehicles

MEETING DATE: July 5, 2006

PREPARED BY: Community Improvement Manager

RECOMMENDED ACTION: That the City Council review and discuss the information provided by Community Development Department Staff regarding the current regulations pertaining to food vending vehicles.

BACKGROUND INFORMATION: The Community Development Department first reviewed the issue of the nuisance conditions that are created by mobile food vendors and other itinerant vendors throughout the community in 1999. At the time, an Ordinance that would expand Lodi Municipal Code Section 9.18 – Vending on Streets and Sidewalks was proposed that would include regulations pertaining to vending from private property. The genesis of that proposal was from the complaints of the local business community and local residents.

The local business community has had issue with the influx of itinerant vendors into this community for some time. This includes the local florists who are affected by the number of flower and gift basket vendors that can be found on almost every major thoroughfare and intersection before Valentines Day and Mothers Day each year, as well as the local car and recreational vehicle dealerships who are affected by the out-of-town dealers that set up weekend sales events in major shopping center parking lots.

The entire community bears the visual impact that these itinerant vendors create as they set up impromptu booths in parking lots and along available frontages selling sunglasses, rugs, flags, statuettes, paintings and other wares. However, the itinerant vendor that is the most prevalent throughout the community is the mobile food vendor (lunch wagons).

The 1999 proposal, which eventually was tabled by Council, was the culmination of a great deal of work that included a public meeting with the local food vendors to receive their input and comment. At that meeting the message was made clear that it was not the City's intent to prohibit the vending activities, but to provide clear and concise regulations to prevent safety, traffic and health hazards, as well as preserve the peace, safety and welfare of the community.

Now, seven years later, we look to resolve these issues once again. Our goal under the new Community Development Director has been to address these issues in the revision of the current Zoning Ordinance. The new Development Code would provide the clear and concise language necessary to make not only

APPROVED: _____
Blair King, City Manager

the enforcement and abatement easier, but also provide clearer guidance to the vendors as to what the regulations are for their continued operation.

The conditions presented in each of the aforementioned itinerant vending activities can be identified as public nuisance and/or hazardous conditions, and accordingly, we have various tools or methods to address the abatement of those conditions. What follows is a summary of the various issues and remedies available at this point.

Land Use Issues – Private Property

There are several sections of the current Zoning Ordinance that can be applied to the vending issue as it occurs on private property or off the public right-of-way.

In 1997, under Section 17.57 General Regulations and Requirements, a general requirement was created mandating that business, with few exceptions, must be conducted inside an enclosed building.

17.57.170 Enclosed building requirement.

Stores, shops or businesses permitted in any commercial or industrial district shall be conducted wholly within an enclosed building unless the specific use and zone permit otherwise. Vehicle sales lots, service stations, parking lots, small recycling collection facilities and those businesses that typically require outdoor storage or activities will be exempt from this requirement. (Ord. 1648 § 1 (part), 1997)

Absent that general requirement, references to such a requirement were scattered and inconsistent throughout the rest of the ordinance pertaining to each zoning designation, as noted in the following review of allowed uses within each zoning district.

The majority of these vending activities occur in either C-1, C-2, C-S, M-1, M-2 or PD (Planned Development) Districts and regulations pertaining to the food related activities in those districts are as follows:

C-1

- Eating Places are an allowed use, except those involving dancing, entertainment or alcohol.
- There is a general criteria pertaining to allowed uses within this district that mentions that business activities be conducted wholly within an enclosed building.

C-2

- Any type of Eating and Drinking Establishment is allowed.
- There is no criteria regarding conducting business within an enclosed building.

C-S

- Refers back to allowed uses within a C-1 District.

M-1

- Refers back to allowed uses within C-M District, which refers back to allowed uses within C-2 District.
- The requirements of the C-M District does include specific language regarding conduct within a building.

17.42.030 Enclosure of uses-Off-premises effects.

Every use in a C-M zone shall be subject to the following conditions:

A. All uses shall be conducted within a completely-enclosed building or within an area enclosed on all sides with a solid wall, screened fence or uniformly painted fence not less than six feet in height, except that uses permitted in the open in the C-2 zone shall be permitted in the open in the C-M zone.

M-2

- Refers back to allowed uses within M-1 District.

P-D

- The PD District where a food vendor happens to be operating, PD(17) which is located at Turner Rd. and Church St., requires that any and all uses, except SFD, must first obtain a Use Permit from the Planning Commission. (LMC 17.33.040)
- The parcel within PD(17) where the vendor is operating is classified for light industrial uses and must conform with the requirements of the C-M District.

Additional Zoning/Land Use Issues

In addition to the regulations pertaining to allowed uses, there are also other Zoning Ordinance regulations that are impacted and/or can be brought into play in order to address the food vending issues.

As each commercial property is developed, there are specific off-street parking requirements based upon the specific use and/or size of the building. In many of the locations where food vending vehicles are setting up, the required parking spaces are being taken up by the food vending vehicles, as well as the tables, tents or awnings that they deploy. As noted in the code section referenced below, this is not allowed.

17.60.040 Use for other purposes.

No portions of a required parking facility may be built upon with new structures or additions, or utilized for other purposes, unless a substitute parking facility is provided that meets the requirements of this chapter. (Prior code § 27-13(b)(4) (part))

In several other locations where these food vendors have established a permanent operation, the properties themselves are either unpaved and/or undeveloped, lacking the appropriate controls for ingress and egress which creates a traffic hazard, and/or controls for storm water contamination to prevent dust and dirt from being tracked onto the adjacent streets and sidewalks. The following language with Section 17.78 Certificates of Occupancy provides some method of addressing this:

17.78.010 Required.

No vacant land shall be used or occupied, except for agricultural purposes, and no building erected, structurally altered or moved after the effective date of the ordinance from which this section derives shall be occupied or used until a certificate of occupancy has been issued by the building inspector. (Prior code § 27-17 (part))

17.78.020 Land.

A certificate of occupancy for the use of vacant land or for a change in the character of the use of land, as provided in this chapter, except for agricultural purposes, shall be applied for before such land shall be occupied or used. The certificate shall be issued within three days after the application has been made, provided such use is in conformity with the provisions of this title. (Prior code § 27-17(a))

The Certificate of Occupancy process has been used for temporary uses, such as Christmas tree lots, car tent sales, and other seasonal events or activities. The process is very outdated and inadequate, as it requires that the Building Official issue “The certificate...within three days after the application has been made...”,

and it does not take into consideration the scope of what is required for an adequate review of such a development by all affected departments, nor does it allow for the recovery of costs related to the review and issuance of the Certificate.

Finally, at several of the locations where food vendors routinely operate, there are some conflicting or incompatible uses that need to be addressed. Several of these sites may be on commercially zoned properties, which are currently occupied by legal/non-conforming residential dwellings. This creates a mix of residential and commercial uses upon the property that in the past has been discouraged unless planned and developed as such, rather than occurring by happenstance.

Health and Safety Issues

There are definite health and safety issues present at most of the mobile food vending locations and several of the other itinerant vendor sites. What follows is a review of those issues and the related codes and regulations:

State Health Codes

From our previous work on these issues with the local Environmental Health Department (EHD), who has jurisdiction for the licensing and inspection of mobile food vendors, we have become more aware of certain conditions or situations that are likely to occur that represent a serious health and safety hazard. While they are under the jurisdiction of EHD, it is more likely that these health and safety conditions are going to be noted by City code enforcement or police personnel at a time and location that EHD would not be able to respond, usually after hours.

- Mobile Food Vendors are required, when operating from a fixed location, to have adequate restroom facilities for their employees. Those restroom facilities must be within 200 feet from their vehicle and be open and available the entire time that they operate.
 - Several of the food vendors operate in locations adjacent to existing businesses and satisfy this requirement by using the facilities at that site. There are several of these same locations where the food vendors remain on-site and operating after that business has closed and the restroom facilities are not readily available. When that occurs, EHD offices are usually closed and their health inspectors are not available for enforcement assistance.
 - Other food vendors operate during the day and/or night from locations where there are no restroom facilities available. There has been at least one documented incident of a LPD Bike Officer catching and citing a man for urinating in public against the side of a building near one of the food vending vehicles, only to find that it was the food vendor.
- Mobile Food Vendors are required to operate from a licensed commissary within San Joaquin County. All prepared food coming from the vehicle must be prepared and transferred to the food vending vehicle at that commissary. The food vending vehicle also must be returned to that commissary to be cleaned, sanitized and restocked.
 - There are several incidents where food vendors are or have been operating from unlicensed commercial locations or their residences. While this represents a zoning or land use violation, the issue of it being a health code violation is the most pressing matter.
- Mobile Food Vending vehicles are required to be self-contained for water, power and waste. At many of these locations, vendors have tapped into power and water. Just how and where these vending vehicles are getting their water is a serious health and safety concern as there are stringent requirements for the type of hose and appropriate connections. The issue of self-containment of waste is also a concern and has been an issue as we've received complaints from time to time of the vehicles purposely draining into storm drains or slowly leaking where they operate or as they transit to and from the property.

Hazardous Electrical

As stated in the previous section, several of the food vending vehicles routinely tap into power through extension cords from buildings or light standards in the parking area. This poses an electrical hazard as the electrical cords are usually run across walking or driving surfaces or the point of connection is illegally and improperly installed. There is language within the adopted Electrical Code that allows us to address these issues.

Hazardous Plumbing/Sanitation

Also stated previously, was the fact that many of the mobile food vendors tap into any available water source at a site. While the locations or existing businesses that they operate adjacent to may have been to code at the time that they were constructed or put into use, the addition of another use on the site requires compliance with current code requirements for the facilities connected to that new use, namely the water connection. While State Health Code mandates certain requirements for hoses and connections, there is clear language within the Plumbing Code that addresses fittings to prevent backflow or cross-connection contamination.

The issue of illegal dumping of waste, especially where it can come into contact with the storm drainage system, is another serious concern that is addressed by our local Municipal Code and State Law.

Related Issues

Business Licensing

One of the other issues related to any type of vending, is whether the vendor has the appropriate business license in order to operate within Lodi. The following LMC Section provides clear and concise language for us to enforce.

3.01.020 Business tax certification required.

Business taxes are imposed upon all businesses, professions, trades, vocations, enterprises, establishments, occupations or callings conducting business in the city to which a business tax may lawfully apply, in an amount established by resolution of the city council. It is unlawful for any person to transact and carry on any business, trade, vocation, enterprise, establishment, occupation or calling in the city not otherwise exempt without first having procured a business tax certificate from the city or complying with all of the applicable provisions of this chapter.

Sales Tax

An issue pertaining to vendors of merchandise and goods is whether the appropriate sales tax is being collected and whether that sales tax is being reported for the proper place of sale. We would have to rely upon some guidance from our Finance Department or Deputy City Manager regarding how to best gather and track this information.

Vending From Streets and Sidewalks

As stated previously, LMC Section 9.18 currently establishes certain guidelines for the following issues pertaining to vending from the public right-of-way:

- Remaining in one location for more than ten minutes.
- Creating a traffic hazard.

- School and intersection proximity.

Summary and Recommendations

In order to proceed, we need to first clarify the City's intent, either to provide clear regulation of these vending activities or to prohibit the activities entirely. It has been City direction to allow but regulate these vending activities, therefore we must then consider the following options.

Apply Existing Code Language

Regarding enforcement of land use regulations that pertain to food vending vehicles and other itinerant vendors, the proposed Development Code provides clearer language for enforcement than that provided in our current Zoning Ordinance. Prior to adoption of the new Development Code, we can proceed with the land use code language outlined previously.

The current code language addressing the hazardous electrical and plumbing conditions is sufficient to proceed with, and the new Administrative Enforcement Provisions adopted by Council provides us with a clear mechanism in which to process violations that are found.

Revise Current Code Language

There are two choices available under this option. In one option, the review and adoption of the Development Code is in process and is expected to be completed within the next six months. This would provide clear code language approaching this as strictly a land use issue.

In the second option, we could revisit the code amendments to Section 9.18 that were proposed in 1999 and have it back before Council for adoption. This would provide a more comprehensive approach to addressing the issues regarding vendors, whether that be food vendors or other itinerant vendors. The subsequent revision of the Development Code would then augment these new regulations, providing clearer guidance for the development of properties to accommodate vending activities.

Regardless of which option that is decided upon, the cooperation and assistance of the County Environmental Health Department (EHD) is crucial to the success of any effort pertaining to the food vendors. Any enforcement activities undertaken by City code enforcement personnel will be coordinated with the EHD so that they can follow up accordingly.

One other factor that must be considered is that a proactive enforcement project of this scope will require a substantial amount of our code enforcement resources. The Community Improvement Division has been down one inspector for the past three months and this has reduced their capabilities significantly, thereby creating a backlog of complaints. The projected return of that one inspector in July and the hopeful approval of budgeted funding for contract code enforcement services is crucial in our ability to address the current backlog and to embark on a proactive enforcement project of this nature.

FISCAL IMPACT:

As with any code enforcement action, the initial enforcement activities would be funded through the General Fund. All follow up enforcement and abatement action would be funded through the cost recovery measures that have been established.

In accordance with the Operational Priorities that were adopted by Council in the Policy Statement for the Code Enforcement Program, committing code enforcement personnel for this enforcement project will divert them from responding to other lower priority complaints.

FUNDING AVAILABLE: This activity would be funded through the General Fund and the Special Revenue Fund established for the Community Development Department.

Ruby Paiste, Interim Finance Director

Joseph Wood
Community Improvement Manager

Concurred:

Randy Hatch
Community Development Director



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Presentation from the Grape Bowl Ad Hoc Committee regarding elements of the Americans with Disabilities Act Transition Plan and request that Council approve the proposed Grape Bowl Concept Plan (PR)

MEETING DATE: July 5, 2006

PREPARED BY: Parks and Recreation Director

RECOMMENDED ACTION: That the City Council review the presentation from the Grape Bowl Ad Hoc Committee regarding elements of the Americans with Disabilities Act (ADA) Transition Plan and request that Council approve the proposed Grape Bowl Concept Plan.

BACKGROUND INFORMATION: Pursuant to Council action, the Parks and Recreation Commission were assigned the task of selecting members comprising the Grape Bowl Ad Hoc Committee. Once selected, Council would confirm their appointment by resolution. This action was accomplished at the February 1, 2006, Council meeting.

According to Phase 1 of the City's ADA Transition Plan, the Committee's charge was to, in part, consider the following:

**Phase 1 – Explore the opportunities, constraints, and costs associated with upgrading the Grape Bowl. Encourage public input and community involvement in the decision process. The scope of the project should not be limited to only accessibility, but also improvement based on the desired use. Interim remediation measures should be discussed in this phase. The recommended forum for these discussions is the Parks and Recreation Commission. A special Ad Hoc Committee shall be formed to obtain community input regarding future use and improvements under the direction of the Parks and Recreation Commission. This phase should be completed by June of 2006.*

The first official meeting of the Grape Bowl Ad Hoc Committee (Committee) was held jointly with the Parks and Recreation Commission on February 28, 2006. Subsequently, the Committee began meeting each Monday thereafter beginning March 6, 2006. Mr. Richard Dean has served as the Committee Chair and Mr. Russ Munson as the Vice Chair. Committee members included: Mr. Kevin Suess, Mr. Jack Fiori, Mr. Don Bricker, Mr. Terry Piazza and Mr. Ed DeBenedetti. All Committee meetings were open to the public and were, in fact, attended by several interested members of the community.

Over the past four months, the Committee has worked diligently on addressing the challenges as described in Phase 1 referenced above. Relevant elements of the ADA Transition and Phasing Plan timeframes were examined. Various members of the Committee took field trips to other facilities that were recognized by the Committee as having challenges similar to those of the Grape Bowl and that were compelled to address like ADA compliance issues. These issues were listed and discussed in the ADA Transition Plan document previously reviewed by Council. Walking tours of the Grape Bowl facility were conducted. And, a Public Workshop was held for the benefit of the community on Monday, April 3, 2006.

APPROVED: _____
Blair King, City Manager

July 5, 2006

Page 2

In addition, the Committee examined studies that had previously addressed accessibility issues. These studies were done by City staff and by ELS Architecture and Urban Design consultants in April 2002. Some of the elements of the plan being presented will incorporate some of those previously recommended by both staff and ELS. Moreover, to further determine any degree of interest that the community might have to save the Grape Bowl, the Committee circulated 10,000 surveys in a Saturday publication of the Lodi News Sentinel. A total of 287 surveys were completed and returned to the office of Parks and Recreation for compilation – a 2.87% rate of return on a direct mail survey.

Other uses of the Grape Bowl facility and funding options are also particularly challenging issues, which the Committee addressed. Various new and alternative uses were discussed and examined paying close attention to both the location and sensitivity of the neighboring residential community north and northeast of the subject site. Although additional activities were thought to be critical to the financial sustenance of the facility, it was decided that events considered compatible with a more passive residential area should be prime factors when planning future Grape Bowl uses which, in effect, limits the use potential of the facility. Funding options to implement any proposed plan, whether of large or small magnitude, must also be addressed. To this end, many financing options were examined including, but not limited to: sales and parcel tax initiatives, benefit assessment districts, Redevelopment Agency (RDA) formation, Community Development Block Grant (CDBG) funds and other grants, Transient Occupancy Tax (TOT), user's tax, sale of City surplus property and, private donations. Each of the aforementioned was considered by the Committee to be feasible over the long term, but impractical for short term needs.

The Grape Bowl Ad Hoc Committee has diligently completed its assignment and has reached consensus on a plan of action. In general, the Committee desires to "Save the Grape Bowl"! It's members have created and will discuss a concept plan that will not only address the outstanding ADA compliance and public safety issues, but will also upgrade a decaying but much cherished facility. An implementation plan will also be presented that is consistent with ADA Transition Plan expectations and timeframes.

The concept and implementation plans were presented to the Parks and Recreation Commission at their June 6, 2006, meeting. Both plans were approved unanimously by the Commission. The Committee was then directed move its recommendations forward to the City Council.

FISCAL IMPACT: Fiscal impact cannot be determined at this time. Council's direction and any interim mitigation measures required to keep the Grape Bowl facility operational will influence and/or dictate future costs.

FUNDING AVAILABLE: No funding has been appropriated at this time.

Ruby Paiste, Interim Finance Director

Tony C. Goehring
Parks and Recreation Director

TCG:tl

cc: City Attorney

Lodi Grape Bowl Ad Hoc Committee

**Report to the Lodi Parks and
Recreation Commission**

June 6, 2006

Lodi Grape Bowl Ad Hoc Committee

**Russ Munson
Ed DeBenedetti
Jack Fiori
Don Bricker
Terry Piazza
Kevin Suess**

Other Participants

**Bob Sheppard Frank Alegre
James Taylor Larry Wenell**

Staff

**Tony Goehring
Terri Lovell
Jerry Herzick**

Major Deficiencies

**Lack of Accessible Path of Travel
Ramps are Too Steep (exceeds 8.33%)
Cross Slopes Exceed 2%
Tripping Hazards
Dilapidated and Inaccessible
Restrooms
Concessions
Field House**

**Americans With Disabilities Act
Transition Plan 2005**

Phase 1 June 2006

**Explore opportunities, constraints, and costs
associated with upgrading the Grape Bowl**

Phase 2 2007- 2008

Hire an Architect to Draw Plans

Phase 3 2008 - 2010

Contract Awarded and Construction Begins

The Committee's Charge

Phase one 2005 ADA Transition Plan

- **Explore opportunities, constraints, and costs associated with upgrading the Grape Bowl**

– ADA accessibility and health and safety

- Study Improvement based on desired use
- *Public input and community involvement*
- Interim remediation measures
- Funding options

Disabled Access

Complaints and Potential Suits

Health and Safety

Civil Liability

Building Codes

Committee Activities

Walking Tour and Deficiency Discussions

Field Trip to Sacramento State

Design Concepts (Measure G)

Potential Uses

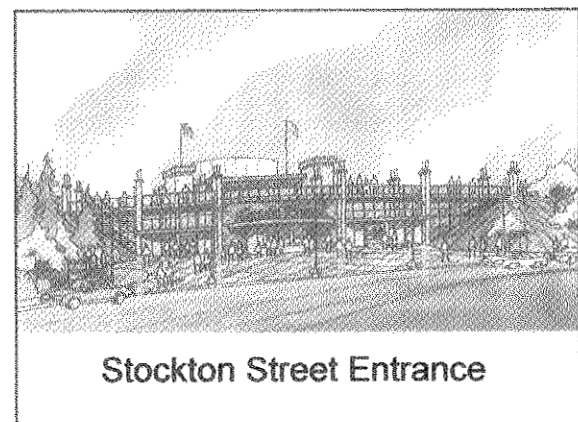
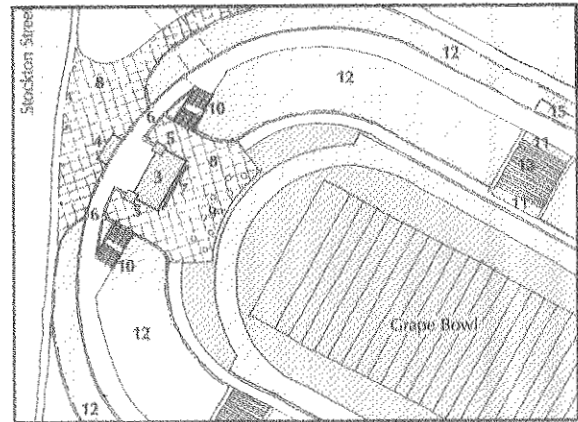
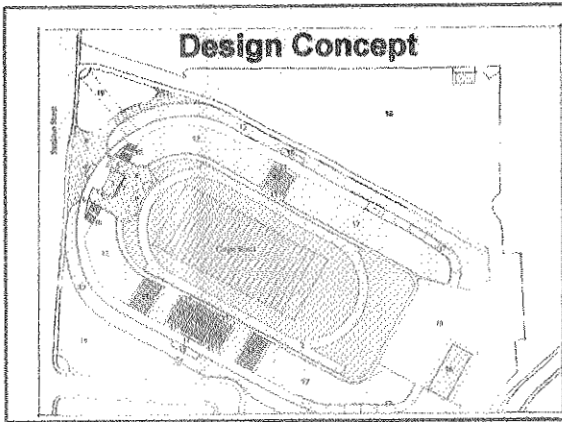
Public Tours, Forum, and Survey

Maintenance Expenses

Funding Options

Mitigation

Design Concept



How Much?

2002 Report

ELS Architecture and Urban Design

Ramps and Stairs at Stockton and Lawrence
\$3.25 Million Inflated At 15% \$3.8 Million

Tunnels through the North and South Berms
\$3.75 Million Inflated At 15% \$4.3 Million

How Much?

\$6 – 8 Million

Today's Dollars

Artificial Turf (\$1.2 Million)

Potential Uses

Football	Band Reviews
Graduations	Soccer
Track Meets	Concerts
Religious Events	Horse / Dog Shows
Renaissance Fair	Garden Show
Car Shows	Circus
Flea Market	Craft Fair
Motocross	Auto Races
Extreme Sports	Monster Trucks

Survey Results

Survey Results

Do you want to do minimal renovations
to the grape bowl, with potential costs
in excess of \$3 million?

Yes	140	49%
No	126	44%
N.R.	21	7%

Survey Results

Do you want to make more extensive
improvements to attract additional
events?

Yes	154	54%
No	117	41%
N.R.	16	5%

Survey Results

Would you be in favor of selling the Grape Bowl property and using the money to build another sports complex?

Yes	50	17%
No	230	80%
N.R.	11	3%

Survey Results

¼ Cent Sales Tax	Y 131	N 147
TOT	Y 145	N 131
\$3 Utility Tax	Y 35	N 242
Parcel Tax	Y 46	N 215
Sell Surplus Prop	Y 115	N 155

Funding

- Private Donors
- Naming Rights
- Sales Tax Initiative
- Parcel Tax
- Redevelopment
- Development fees (PFF)
- Privatization
- Elimination

Maintenance Expenses

- \$60,000 per year (current level)
- Additional Rental Fees
- Advertising Sales
- Ticket Surcharge

Mitigation

- Restrict Use to Currently Scheduled Events
 - Football - Graduations - Band Review
- Repair Tripping Hazards
- Provide Disabled Parking, Portable Restrooms, and Access From East End of the Field
- Provide Wheel Chair Spaces at Lower Level
- Require Event Sponsors to Provide Disabled Assistance

Strategy

- Ad Hoc Committee will Form a Fund Raising Committee - Independent of the City
- Ad Hoc Committee will Recess for One Year
- The Fund Raising Committee will Establish a 501C3 Non Profit And Begin Fund Raising
- That Committee Will Also Assist with Mitigation Projects at the Grape Bowl
- Ad Hoc Committee Will Reconvene the First Monday in June 2007 to Develop Final Recommendations to the City
- Implement A Ticket Surcharge Directed to A Grape Bowl Mitigation Fund



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Introduce Ordinance Amending Lodi Municipal Code, Title 5 “Permits and Regulations”, Chapter 5.40 “Adult-Oriented Businesses”, by Repealing and Reenacting Section 5.40.020 “Location of Adult-Oriented Businesses” to add “Residentially-Zoned Property” to the list of land uses subject to distance regulations regarding the location of adult-oriented businesses; and Repealing and Reenacting Section 5.40.400(D)(1) to delete the requirement that employees of adult-oriented business be fingerprinted as part of the employee license process.

MEETING DATE: July 5, 2006

PREPARED BY: Janice D. Magdich, Deputy City Attorney

RECOMMENDED ACTION: Introduce Ordinance Amending Lodi Municipal Code, Title 5 “Permits and Regulations”, Chapter 5.40 “Adult-Oriented Businesses”, by Repealing and Reenacting Section 5.40.020 “Location of Adult-Oriented Businesses” to add “Residentially-Zoned Property” to the list of land uses subject to distance regulations regarding the location of adult-oriented businesses; and Repealing and Reenacting Section 5.40.400(D)(1) to delete the requirement that employees of adult-oriented business be fingerprinted as part of the employee license process.

BACKGROUND INFORMATION:

Section 5.40.020 – Location of Adult-Oriented Businesses.

In 1992 the City of Lodi established its first regulations regarding adult business. That act by the City Council set forth where adult businesses may be located within the community. Currently no person is to establish, conduct or permit to be established or conducted any adult-oriented business within one thousand feet of any church, school, playground, child-care center or existing adult-oriented business.

The addition of “residentially zoned property” to the list of land uses subject to distance regulations regarding the location of adult businesses furthers the intent of Lodi Municipal Code Section 5.40.020, as the City has a substantial interest in preserving the quality of urban life within the City and distance regulations regarding where adult businesses are located are designed to serve this interest by decreasing blight and crime. The inclusion of “residentially-zoned properties” is a reasonable and related extension of the types of land uses currently subject to distance regulations by the City. As the United States Supreme Court has upheld distance regulations which prohibit adult businesses from locating within 1,000 feet of any residentially zoned property, it is the opinion of the City Attorney’s office that the proposed revision to Section 5.40.020 is a constitutionally permitted regulation of adult-oriented businesses.

Staff therefore recommends the addition of “residentially-zoned property” to the list of land uses subject to distance regulations regarding the location of adult-oriented businesses.

Section 5.40.400(D)(1) – Adult-Oriented Business Employee License Required:

In November 2003 the City Attorney's office brought an ordinance before the Council to amending Lodi Municipal Code Title 5 "Permits and Regulations", Chapter 5.40 "Adult-Oriented Businesses". In part, the amendment was to eliminate the requirement that applicants for licensure under Chapter 5.40 provide fingerprints. Due to an oversight, the Ordinance adopted by Council retained the requirement that employees of adult-oriented businesses be fingerprinted as part of the City's licensure process (section 5.40.400(D)(1)). To correct this oversight, staff recommends the adoption of the proposed ordinance.

FUNDING: None

Janice D. Magdich
Deputy City Attorney

Attachment – Proposed Ordinance

cc: Randy Hatch, Community Development Director
Jerry Adams, Police Chief

City/CounCom/AdultBusinesses/AdultBusinesses6.doc

APPROVED: _____
Blair King, City Manager

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI
REPEALING AND REENACTING LODI MUNICIPAL CODE, TITLE
5 "PERMITS AND REGULATIONS", CHAPTER 5.40 "ADULT
ORIENTED BUSINESSES", SECTION 5.40.020, TO ADD
"RESIDENTIALLY ZONED PROPERTY" TO THE LIST OF LAND
USES SUBJECT TO DISTANCE REGULATIONS REGARDING
THE LOCATION OF ADULT ORIENTED BUSINESSES

=====

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

SECTION 1. Lodi Municipal Code Title 5 "Permits and Regulations", Chapter 5.40 "Adult-Oriented Businesses", Section 5.40.020 is hereby repealed and reenacted to read as follows:

5.40.020 - Location of Adult-Oriented Businesses.

From and after adoption of this chapter, no person shall establish, conduct or permit to be established or conducted any adult-oriented business within one thousand feet of any church, school, playground, child care center, residentially zoned property or adult-oriented business.

SECTION 2. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 3. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 4. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 5. This ordinance shall be published one time in the "Lodi News-Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi and shall take effect thirty days from and after its passage and approval.

Approved this ____ day of _____, 2006

SUSAN HITCHCOCK
Mayor

Attest:

JENNIFER M. PERRIN
Interim City Clerk

=====

State of California
County of San Joaquin, ss.

I, Jennifer M. Perrin, Interim City Clerk of the City of Lodi, do hereby certify that Ordinance No. ____ was introduced at a regular meeting of the City Council of the City of Lodi held July 5, 2006, and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held _____, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES; COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. ____ was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

JENNIFER M. PERRIN
Interim City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER
City Attorney

By _____
Janice D. Magdich
Deputy City Attorney



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Introduce Ordinance Amending Lodi Municipal Code Title 17, "Zoning", Chapter 17.39, "C-2 General Commercial District", and Chapter 17.42 "C-M Commercial-Light Industrial District", to add Cardrooms as a permitted use, with a use permit, in both the C-2 and C-M zoning districts.

MEETING DATE: July 5, 2006 City Council Meeting

PREPARED BY: City Attorney's Office

RECOMMENDED ACTION: Introduce the ordinance as presented.

BACKGROUND INFORMATION: Section 5.12.140(E) of Chapter 5 of the Lodi Municipal Code "Cardrooms", states in pertinent part: "No gambling establishment may be located in any zone which has not been specifically approved for such a business. Additionally none may be located near any of the unsuitable areas, as specified in Business and Professions Code section 19852(a)(3) [renumbered as 19852 and amended by statute in 2002]."

A review of Title 17 (Zoning) of the Code, indicates that no zoning districts within the City specifically allow for cardrooms. At the request of the Community Development Director, the City Attorney's office drafted the proposed ordinance to allow for cardrooms, subject to securing a use permit, within the C-2 (general commercial) and C-M (commercial-light industrial) zoning districts. It is the consensus of the Community Development Director and the City Attorney's office that cardrooms would be a compatible use within the C-2 and C-M zoning districts.

FUNDING: None.

FISCAL IMPACT: None.

Approved: _____
Janice D. Magdich
Deputy City Attorney

Attachment: Proposed Ordinance

cc: Randy Hatch, Community Development Director

City/CounCom/Ordinances/CardroomZoning.doc

APPROVED: _____
Blair King, City Manager

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI AMENDING LODI MUNICIPAL CODE, TITLE 17 "ZONING", CHAPTER 17.39 "C-2 GENERAL COMMERCIAL DISTRICT", AND CHAPTER 17.42 "C-M COMMERCIAL-LIGHT INDUSTRIAL DISTRICT" TO ADD CARDROOMS AS A PERMITTED USE WITH A USE PERMIT IN BOTH THE C-2 AND THE C-M DISTRICTS

=====

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

SECTION 1. Lodi Municipal Code TITLE 17 "ZONING", CHAPTER 17.39 "C-2 GENERAL COMMERCIAL DISTRICT", is amended to add SECTION 17.39.025 as follows:

17.39.025 - Permitted Uses – Use Permit.

The following uses are permitted in the C-2 district subject to securing a use permit:

- A. Cardroom, as defined by Section 5.12.010(A) of this Code.

SECTION 2. Lodi Municipal Code TITLE 17 "ZONING", CHAPTER 17.42 "C-M COMMERCIAL-LIGHT INDUSTRIAL DISTRICT", is amended to add SECTION 17.42.025 as follows:

17.39.025 - Permitted Uses – Use Permit.

The following uses are permitted in the C-M district subject to securing a use permit:

- A. Cardroom, as defined by Section 5.12.010(A) of this Code.

SECTION 3. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 4. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 5. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 6. This ordinance shall be published one time in the "Lodi News-Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi and shall take effect thirty days from and after its passage and approval.

Approved this ____ day of _____, 2006

SUSAN HITCHCOCK
Mayor

Attest:

JENNIFER M. PERRIN
Interim City Clerk

=====
State of California
County of San Joaquin, ss.

I, Jennifer M. Perrin, Interim City Clerk of the City of Lodi, do hereby certify that Ordinance No. ____ was introduced at a regular meeting of the City Council of the City of Lodi held _____, 2006, and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held _____, 2006, by the following vote:

AYES: COUNCIL MEMBERS –
NOES; COUNCIL MEMBERS –
ABSENT: COUNCIL MEMBERS –
ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. ____ was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

JENNIFER M. PERRIN
Interim City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER
City Attorney

By _____
Janice D. Magdich
Deputy City Attorney



TM

CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Ordinance No. 1780 Entitled, "An Ordinance of the City Council of the City of Lodi Imposing a Transactions and Use Tax to be Administered by the State Board of Equalization and Adding Chapter 3.09 to the Lodi Municipal Code"

MEETING DATE: July 5, 2006

PREPARED BY: City Clerk

RECOMMENDED ACTION: Motion waiving reading in full and (following reading by title) adopting the attached Ordinance No. 1780.

BACKGROUND INFORMATION: Ordinance No. 1780 entitled, "An Ordinance of the City Council of the City of Lodi Imposing a Transactions and Use Tax to be Administered by the State Board of Equalization and Adding Chapter 3.09 to the Lodi Municipal Code" was introduced at the regular City Council meeting of June 21, 2006.

ADOPTION: With the exception of urgency ordinances, no ordinance may be passed within five days of its introduction. Two readings are therefore required – one to introduce and a second to adopt the ordinance. Ordinances may only be passed at a regular meeting or at an adjourned regular meeting; except for urgency ordinances, ordinances may not be passed at a special meeting. Id. All ordinances must be read in full either at the time of introduction or at the time of passage, unless a regular motion waiving further reading is adopted by a majority of all council persons present. **Cal. Gov't Code § 36934.**

Ordinances take effect 30 days after their final passage. **Cal. Gov't Code § 36937.**

This ordinance has been approved as to form by the City Attorney.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

Jennifer M. Perrin
Interim City Clerk

JMP

Attachment

APPROVED: _____
Blair King, City Manager

ORDINANCE NO. 1780

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI
IMPOSING A TRANSACTIONS AND USE TAX TO BE ADMINISTERED
BY THE STATE BOARD OF EQUALIZATION AND ADDING CHAPTER
3.09 TO THE LODI MUNICIPAL CODE

=====

THE PEOPLE OF THE CITY OF LODI DO ORDAIN AS FOLLOWS:

SECTION 1. The Lodi Municipal Code is hereby amended by the addition of Chapter 3.09, which shall read as follows:

3.09.010 Title and Effect

This chapter shall be known as the City of Lodi Transactions and Use Tax Ordinance. This chapter shall be applicable in the incorporated territory of the City of Lodi ("City"). This chapter shall complement, and not replace or supersede, the City's existing sales and use tax, as such tax is described in Chapter 3.08 of the Municipal Code.

3.09.020 Operative Date

As used in Chapter 3.09, "Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this chapter. If this chapter is approved by the voters at the November 7, 2006, election, the operative date shall be April 1, 2007.

3.09.030 Purpose

This chapter is adopted to achieve the following, among other purposes, and the City Council directs that the provisions hereof be interpreted in order to accomplish those purposes:

- A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.91 of Part 1.7 of Division 2, which authorizes the City to adopt this tax chapter, which shall be operative if two-thirds of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.
- B. To adopt a retail transactions and use tax chapter that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.
- C. To adopt a retail transactions and use tax chapter that imposes a tax and provides a measure therefor that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.

- D. To adopt a retail transactions and use tax chapter that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this chapter.

3.09.040 Expenditure Plan

- A. The Expenditure Plan is designed to ensure that the City accomplishes the specific projects listed below with the revenue generated from the transactions and use tax. The revenue from the transactions and use tax shall be expended on these specific projects in the following order of priority:
1. Placing paramedics on fire engines in the City (up to \$700,000 per year for six years);
 2. Design and construction of Fire Station #5, which shall be located in the southeast portion of the City (up to \$2,000,000);
 3. Construction of the Lodi Aquatics Center (up to \$9,000,000);
 4. Design and construction of a replacement for Fire Station #2, which shall be located in the eastern portion of the City (up to \$2,000,000);
 5. Construction of a downtown indoor sports center (up to \$9,000,000); and
 6. Maintenance and operation of the facilities above (up to \$1,500,000).
- B. Once the City has collected revenue from this transactions and use tax in the amount of \$700,000, it shall hire an appropriate number of paramedics and begin providing paramedic services on fire engines in the City within twelve months. Thereafter, subject to its ongoing duty to expend \$700,000 per year to fund paramedics pursuant to this Expenditure Plan, once the City collects the amount listed for each subsequent project it shall begin design or construction of the designated facilities within six months.
- C. The City Council shall appoint an advisory committee to ensure that the revenue from the transactions and use tax is spent in accordance with the actual terms and overall intent of this chapter. The committee shall consist of five individuals and shall, at all times, include one member of Lodi Professional Firefighters Local 1225, one member of the Lodi City Swim Club, one member of the Lodi Sports Foundation, one member of the City Council, and one person selected at large by the City Council in its discretion. Each member of the advisory committee shall serve for a term of two years, which term may be renewed by the City Council. In the event of a vacancy on the committee, the City Council shall appoint an appropriate replacement member.
- D. If the City Council and the advisory committee both determine that the maximum dollar amount to be spent on one or more of these projects is insufficient to achieve the goals of this chapter, the City Council may increase the maximum dollar amount for such project(s), provided that it first holds a noticed public hearing and makes specific findings that the increased expenditures for one or more projects is necessary to complete such project(s) in an effective manner and to fulfill the intent of this chapter.

- E. If the City Council and the advisory committee both determine that the order of priority for these projects should be changed, the City Council may change the order of priority, provided that it first holds a noticed public hearing and makes specific findings that the change in the order of priority is in the best interests of the City and its residents.
- F. Once revenue in the amounts listed above has been spent on the services and facilities included in each of these projects, any remaining revenue raised through this transactions and use tax shall be spent to help maintain such services and facilities.

3.09.050 Contract with State

Prior to the Operative Date, the City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax chapter; provided that, if the City shall not have contracted with the State Board of Equalization prior to the Operative Date, it shall nevertheless so contract and in such a case the Operative Date shall be the first day of the first calendar quarter following the execution of such a contract.

3.09.060 Transactions Tax Rate

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of .25% (one quarter of one percent) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the Operative Date of this chapter.

3.09.070 Place of Sale

For the purposes of this chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

3.09.080 Use Tax Rate

An excise tax is hereby imposed on the storage, use, or other consumption in the City of tangible personal property purchased from any retailer on and after the Operative Date of this chapter for storage, use, or other consumption in said territory at the rate of .25% (one quarter of one percent) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

3.09.090 Adoption of Provisions of State Law

Except as otherwise provided in this chapter and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this chapter as though fully set forth herein.

3.09.100 Limitations on Adoption of State Law and Collection of Use Taxes

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

- A. Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. However, the substitution shall not be made when:
 - 1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;
 - 2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Chapter.
 - 3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:
 - a. Provide an exemption from this tax with respect to certain sales, storage, use, or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use, or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;
 - b. Impose this tax with respect to certain sales, storage, use, or other consumption of tangible personal property, which would not be subject to tax by the state under the said provision of that code.
 - 4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797, or 6828 of the Revenue and Taxation Code.
- B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

3.09.110 Permit not Required

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this chapter.

3.09.120 Exemptions and Exclusions

- A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.
- B. There are exempted from the computation of the amount of transactions tax the gross receipts from:
 - 1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.
 - 2. Sales of property to be used outside the City, which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:
 - a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and
 - b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.
 - 3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the Operative Date of this chapter.
 - 4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the Operative Date of this chapter.
 - 5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

- C. There are exempted from the use tax imposed by this chapter, the storage, use, or other consumption in this City of tangible personal property:
1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.
 2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.
 3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the Operative Date of this chapter.
 4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the Operative Date of this chapter.
 5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
 6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.
 7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.
- D. Any person subject to use tax under this chapter may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use, or other consumption of which is subject to the use tax.

3.09.130 Amendments

All amendments subsequent to the effective date of this chapter to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this chapter, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this chapter. Except as provided above and in Section 3.40.140, this chapter may be amended only by the voters pursuant to the provisions of Elections Code section 9217 and as provided by law.

3.09.140 Termination of Tax

The transactions and use tax imposed by this Chapter shall terminate ten years from the Operative Date.

3.09.150 Enjoining Collection Forbidden

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this chapter, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

SECTION 2. Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

SECTION 3. Effective Date. This chapter is related to the levying and collecting of the City transactions and use tax and shall take effect immediately (see Section 1, 3.09.020, "Operative Date").

SECTION 4. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 5. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 6. This ordinance shall be published one time in the "Lodi News Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall be in force and take effect immediately after its passage and approval (see Section 1, 3.09.020, "Operative Date").

Attest:

Approved this 5th day of July, 2006.

JENNIFER M. PERRIN
Interim City Clerk

SUSAN HITCHCOCK
Mayor

State of California
County of San Joaquin, ss.

I, Jennifer M. Perrin, Interim City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1780 was introduced at a regular meeting of the City Council of the City of Lodi held June 21, 2006, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held July 5, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. 1780 was approved and signed by the Mayor of the date of its passage and the same has been published pursuant to law.

JENNIFER M. PERRIN
Interim City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER
City Attorney